

CEDAW Shadow Report

by the

Association of Women for Action & Research

(AWARE)

for the

39th CEDAW session (July – August 2007), CEDAW Committee

May 2007



Association of Women for Action and Research

Block 5 Dover Crescent #01-22 Singapore 130005

Telephone: 6779-7137

Fax: 6777-0318

Helpline: 1800-774 5935

e-mail: aware@aware.org.sg

© AWARE 2007

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without the prior permission of AWARE.

CONTENTS

Foreword	ii
Introduction	iii
Executive Summary	vi
1. Articles 1-4	1
2. Article 2	9
3. Article 5	18
4. Article 6	28
5. Article 7	42
6. Article 8	52
7. Article 9	54
8. Article 10	60
9. Article 11	66
10. Article 12	90
11. Article 16	97
10. Conclusion	129
11. Appendices	132
12. Reference Materials	

FOREWORD

I am honoured to present this report to the CEDAW Committee. This is the second shadow report that the Association of Women and Action (AWARE) is submitting to the CEDAW Committee since the State of Singapore acceded to the Convention On the Elimination of all Forms of Discrimination Against Women in October 1995.

AWARE is happy to report that in some areas discriminatory practices against women have been removed since our last report. Women are better educated and more women are in the work force. However evidence captured by the report provides proof of some of the systemic problems women face, particularly in the work place and in old age. Sexual role stereotyping and its consequences remain a serious concern.

Singapore women are poorer than men and face a higher risk of poverty than men in all ages and stages of their lives. Women are the poorest of the poor as they age. This is one of the most significant indicators of women's inequality in Singapore and should be of primary concern to the State in the development of all its economic and social policies.

Another significant indicator of the status of Singapore women is the absence of constitutional guarantee of equality before the law.

This report is AWARE's most comprehensive report on the current status of women in Singapore. It could serve as a working document for both the State and NGOs to work cooperatively together to improve the status of women in Singapore.

Constance Singam
President, AWARE

26th May 2007

INTRODUCTION

This is the Association of Women for Action and Research's (AWARE) second Shadow Report. In this report we extend the discussions beyond the in-principle arguments to include insights based on evidence. We worked with a pool of individuals and organizations to gather information or to act as resource persons. At the outset it needs to be mentioned that women here have it so much easier and opportunities for development are available. Hence any critique needs to look at details and the underpinning principles that govern policies, to assess forms of discrimination.

The work for this report actually began in August 2004. Volunteers and executive committee members spent two Saturdays at a CEDAW training workshop that was conducted by Ms Tashia Peterson from IWRAW. But with the then Chair, Dr Meena Shivdas, being posted overseas and because we knew that Singapore was not due at UN yet, this project went into a hiatus. Work on this began again in April 2006 with a mix of new and past members to form the CEDAW sub-committee that comprised lawyers, academics, an editor, post-graduate and undergraduate students, some of whom were interns.

Process

- We decided to focus on key Articles that were crucial to enhancing the development and status of women in Singapore. However it needs to be acknowledged that with this emphasis we run the risk of making less of certain other issues. But there's only so much that can be done by a pool of volunteers, all of whom hold down jobs or are full-time students.
- The sub-committee had four sessions of sensitization discussions on CEDAW and on local issues. Each key volunteer took charge of researching and writing on one Article of choice while a research team supported their efforts. In two instances volunteers framed their own midget-sized research: analysis of a few days' worth of newspaper advertisements to gauge the aggression of the slimming industry; and bean-counting of character-portrayals in children's text books. This was necessary as there was no fresh data or these fields were relatively unexplored.
- As a sub-committee much energy has gone into checking and re-checking our facts against information that is available. We have also tried to be fair and acknowledge the efforts made by the Government in promoting gender equality. Because of the nature of this reporting structure there is some repetition of arguments across Articles as issues are intertwined. We have cross-referred wherever possible.
- We submitted the Draft report in December 2006 to the AWARE Executive Committee for feedback, to the Singapore Council of Women's Organizations, the parent body of which AWARE is also a member, for their endorsement (partial or full) and comments, and also to IWRAW for feedback.

- With feedback from IWRAW that came in April 2007, we revised some parts of the report and will send it to IWRAW on 27th May 2007 for the report to reach the CEDAW Committee.
- This Report is submitted with an attachment –a Reference File for citations and explanations. We have tried to be thorough for AWARE’s sake too as this and the State’s Report will now shape AWARE’s advocacy and public education materials.
- In April 2007 we were part of the Closed Door Session that the Ministry of Community Development Youth and Sports (MCYS) and Singapore Council of Women’s Organization conducted. We raised many issues especially on the reservations and the role of the Inter-Ministry Committee (IMC). Key issues from this report were shared at the session.
- In April 2007 we also invited women’s groups and other member organizations to attend sessions and give feedback on the report. That feedback has been incorporated where appropriate.
- In May 2007, with the help of MCYS, we also met the Islamic Council of Muslim Affairs (MUIS) for a dialogue and await a follow-up with the Attorney-General’s Chambers that will be organized by MCYS and MUIS. We will also be meeting with the Muslim Women’s groups for further discussions. In all of these it must be said that the Ministry is also in earnest to look for answers with regards to Articles 2 and 16.

Much of the report refreshes arguments for removal of the blanket reservations to Articles 2, 11, and 16. We have also highlighted this disparity of having a high number of women with talent and education and the low number of women who hold decision-making positions. Such gaps are discussed in detail in Article 11. In this Report we also highlight certain backlashes resulting from some policies: – for example, the increase in maternity leave has resulted in some instances of unexpected terminations of employment for expectant mothers. We are also concerned about young girls and women falling into stereotypical roles and battling an aggressive slimming industry. This is discussed in greater detail in Article 5, 6 and 7. Education is a cornerstone in changing mindsets and yet the school curriculum seems to be lacking in gender sensitization discussions. This is highlighted in Articles 5, 10 and 11. In this report we have devoted some space to discuss the foreign women in our midst. Migration in whatever form is a new world order and Singapore is no exception to such influences. We make a case for foreign women to be treated as local women, on the grounds of their residential status. Legislation is needed to protect foreign women in this category to avoid discriminatory policies. These are discussed in Articles 5, 6, 11 and 16.

We are grateful to other civil society groups that have unreservedly given us the support. This report would not be possible without the Malaysian Shadow Report which we benchmarked against for our Report. Civil society groups such as Transient Workers Count Too (TWC2), Humanitarian Organization for Migration Economics (HOME), Archdiocesan Commission on Migrant and Itinerant Workers (ACMI) are groups that

furnished AWARE with information on Foreign Domestic Workers. The Singapore Council of Women's Organizations has been supportive in this process.

This work would not have been possible without the sheer dedication of the following volunteer writers and researchers – Azmeen Moiz, Charlotte Yap, Halijah Mohamad, Hedaya Al-Rahman, Mary Burke, Sarah Chalmers, Sarah Tan; and the second batch of volunteers - Clementine Yap, Lee Sze Yong, Chen Siya, Soh Kwan Mei, Verity Alison Low. I am grateful to Sarah Chalmers, Halijah Mohamad, Hedaya Al-Rahman, Verity Alison Low, AWARE's Centre Manager Harmin Kaur for being there all the way with me to put this comprehensive report together and to Leslie Koh for helping with proofs.

We also thank the Executive Committee of AWARE and IWRAW Asia-Pacific for their support and valuable feedback.

Lastly, Singapore is evolving and we face new challenges – fertility rates that are below replacement levels, an ageing population, impact of globalization on job security and work-life balance, a younger population that is keen to seize the opportunities offered through globalization and a leadership that is still cautious in giving more civil space to its citizenry. Against this backdrop it is harder to accept that as a first principle there is discrimination through our Constitution, which is not inclusive of 'gender' and 'status'. The second is that for a highly educated population we still have too few women ministers and decision-makers at the top end. The State cannot afford not to embrace one half of the population as being worthy enough to be part of our nation-enhancement effort in every respect.

To more dialogues for a common outcome.

Yours sincerely

Braema Mathiapparanam (Mathi)
Chair, CEDAW Report Committee
Past President (2003-2005)

EXECUTIVE SUMMARY – CEDAW SHADOW REPORT

We acknowledge and appreciate the many efforts made by the Singapore government to make conditions better for women. Some have been big steps such as the removal of the quota on female medical students and others are incremental steps such as in the provisions for family-friendly work places.

While the State tries hard nevertheless the basic approach is still centered on meeting practical gender needs more than strategic gender needs. Hence the emphasis on women's reproductive roles as a solution to boost TFR, rather than a systemic assessment of what ails reproduction to replacement levels. This type of a quick-fix solution comes sometimes at high costs. Policy creation and implementation needs a systemic approach based on the very paradigm that the State advocates - Everyone – Female or Male, Older or Younger, Citizen – Matters.

As such here are the key points that the Association of Women for Action and Research would like the CEDAW Committee to consider:

1. Women To Have Equal Representation Under the Constitution

The Government cited that its blanket reservations are premised to guarantee the freedom of minority groups, mainly Muslim women and men, so that they can practice their personal and religious laws under Article 152 of the Constitution. This balance is important and Singapore's multi-faith approach needs to be preserved. However there is a strong argument to withdraw the blanket reservations from Article 2 and 16 and enter partial reservations on 2(f), 16(1a) and (1c). A country like Malaysia with similar dilemmas, has removed such reservations and included "Gender" under its Federal Constitution.

The government's rationale for entering a blanket reservation on Article 11 is based on grounds of safety issues in certain industries and that the Employment Act is not all inclusive. This can be easily remedied if the Employment Act is amended and safety becomes a primary concern across industries.

While the CEDAW Committee's conditions can be challenging on the matter of partial withdrawal of reservations this is a matter that the Government can study. Other countries (for example Austria) have done it and have also given assurances to removing all reservations in due course. We appreciate that it is a difficult balancing act in Singapore but not impossible without compromising on any one group.

Our recommendations

- We urge the Government to remove the blanket reservations to Article 2 and enter a partial reservation with reference to Article 2(f) that covers issues

pertaining to the allowances made under the Administration of the Muslim Law Act, for Muslim women and men to have the freedom to practice their own religion.

- For Article 16 the reservations should be restricted to Article 16 (1) (a) and (c) only as Singapore has laws which give men & women (including Muslim women) the same rights as required by Article 16(1)(a) to (h).
- We urge the Government to amend the Constitution to include “gender” and “Status” so that there is no discrimination or exclusions in the Constitution.
- We urge the Government to withdraw the reservation to Article 9 and propose that the Constitution be amended to become gender-neutral in its provisions on citizenship.
- We urge the government to withdraw the reservation to Article 11 and amend the Employment Act to make workplace safety a priority in all work spaces.
- We urge the Government to form a committee to review the State’s position on reservations and to review all laws for harmonization with the Constitution.

2. The National Machinery for Women

The Women’s Desk within the Ministry of Community Development Youth and Sports needs to be strengthened. Though cross-cutting across Ministries in its role, it functions more in a capacity to co-ordinate than to envision and plan for gender mainstreaming strategies. The Inter-Ministerial Committee on CEDAW needs to make itself more visible as its impact is hardly felt at the ground level. Credit needs to be given at this point to the tireless efforts of the Minister of State and her team for making things happen with this small outfit of the Women’s Desk.

Our recommendations

- We urge the Government to institute a Gender Equality outfit as in developed countries. This unit’s mandate is to ensure that gender is mainstreamed across the country.
- The Women’s Desk needs to be more than a Desk and become a full-fledged Department recognizing the diverse roles women play.
- That the Women’s Desk/IMC needs to review the state of affairs for single women, divorcees and married women whose husbands do have second marriages in other countries.
- The 3P approach – public, private and people sectors – needs to become a reality at policy consultation level.
- This body – Gender Equality or the Women’s Desk – needs to make gender mainstreaming a norm, needs to provide gender disaggregated data as a norm, and needs to conduct gender-sensitisation programmes as a norm.

3. Enhancing the Position of Women at the Top Level

Singapore's women are more fortunate where access to opportunities and education are concerned. The report card, thanks to State's effort is impressive. But what concerns is the disconnect when well-educated women are not holding enough decision-making jobs. It is correct that many women still feel that their role is in the home and so limit their own careers. In other instances it is due to discriminating attitudes for which there is no legal recourse though the unions take up representation on behalf of workers.

The Government's over-riding paradigm is one that men are heads of the household and that the family structure needs to prevail. There is nothing wrong in emphasising the family as all important. But it is troubling when policies are oriented towards enhancing family structures.

Our recommendations

- We also urge the Government to continue with its efforts to get more women into Politics. A well-administered Women's Register is a step in the right direction.
- We urge the Government to institute mechanisms to bring more women into politics and our recommendation is to field women in single-seat constituencies instead of just depending on the Group Representative Constituency (GRC) scheme.
- We urge the Government to promote capable female Parliamentarians to full Minister positions - it is an impossible situation to have no full female Minister in Singapore despite the talented women in Parliament.
- We urge the Government to introduce gender-sensitisation training programmes as there is still a general lack of gender-sensitivity among Parliamentarians, civil service officers and the private sector.
- We urge the Government to review its National agenda which is very focused on the family and men as heads of households. These have influenced policies locking women and men into reproductive and productive roles respectively.
- We urge the Government to debunk the notion of men as heads of households and opt for a policy model of joint-partnership in families.

4. Women in the Labour Market and Work-Life Balance

There is stereotyping in the kind of jobs that men and women take on. Women earn less than men. Women and Men are struggling with this universal phenomenon of balancing their lives across work, home, three-generational families, hobbies. It is still mainly women trying to make things work at home, in the office and in their relationship.

The Government is trying its best to bring about better work-life balance. It has set up various multi-stakeholder set-ups among employers, unions and the Ministry of Manpower. But it is pervasive in the culture that men are the breadwinners and therefore women play a secondary role.

Our recommendations

- We urge the Government to lead the way by introducing gender sensitization training within the civil service.
- We urge the Government to use more ‘stick’ too against employers who are resistant to flexible work arrangements.
- The Government needs to help small companies manage flexible work arrangements.
- We recommend that dismissals of pregnant mothers be investigated thoroughly as processes of assessments of workers can be opaque.
- We urge the Government to review child-care and day care facilities for quality of resources. The Government also needs to increase these facilities so that working couples have viable and attractive alternatives when it comes to caring for children and the elderly.
- We urge the government to review existing parental leave policies.
- We recommend setting up an Equality Commission to look into all matters of discrimination and pass legislation against Discrimination to protect all workers.
- There is an urgent need for the Women’s Desk and IMC or a new unit to form a task force to look into matters of the Older Woman who outlives her spouse but may not outlast her finances.

5. Stereotyping Women

The pressure to look beautiful is overwhelming. The market targets new technologies to get to the young to sell their products and services. Women still hold stereotypical roles at the workplace. Sexual harassment is understated as there is no legal recourse. Women are also socialized to accept harassment as a norm at the workplace.

Our recommendations

- We recommend that there is a review of the guidelines on advertising. Organisations such as CaseTrust which receives many complaints against agencies, must take visible action against such agencies when there is no compliance.
- We urge the government to take action against match-making agencies which blatantly ‘sell’ foreign brides as ‘virgins’ and ‘submissive’ women, etc.
- We recommend that there is legislation on Sexual Harassment.

- We recommend that Sexuality Education classes also include Body Image discussions and attitudes towards foreign women vis-à-vis local women.

6. Education

We have one of the best systems of education – rigorous, transparent, and filled with possibilities for self-development of the child. But it is seriously lacking in gender discussions in the classroom, in the teachers’ training curriculum or at leadership training for school heads. Perhaps there is a fear that such courses will deviate from the national paradigm of men as heads of households or de-emphasise the family. The demands of today’s world makes it even more important that we actually include such curricula, not in a prescriptive manner, in school.

Our recommendations

- We urge the Government to include Gender Sensitisation Training Programme, in its teacher-training curricula.
- We also urge the Government to extend compulsory education to the disabled child so that girl children will have access to an education and independent living skills.
- We also urge the Government to harness resources to improve the sexuality education courses. Girls and boys need more space in such classes to raise questions and to talk about issues that affect them.

7. Health and Women

Women outlive their spouses. Older Women are less financially independent and as a woman grows older she is prone to life-long disabling illnesses. Younger women are struggling on many fronts and statistics reveal a higher incidence rate of mental illnesses among women.

Our recommendations

- We recommend that the IMC on Ageing forms a specific caucus to look at the older Woman’s needs.
- We urge the Government to incentivise banks and other financial institutions to develop community housing projects for the older person.
- We recommend that banks too be encouraged to offer sustainable reverse mortgage deals for an ageing population.
- We urge the Government to set up an IMC to look at Mental Illnesses in Singapore and within that to form a caucus to review how women are affected.

8. Foreign Women

Certain groups of foreign women are more vulnerable to being abused, discriminated against and/or exploited. One group is the foreign domestic worker who is not protected under law. Though there are new guidelines and a non-national standard contract, she is still relying on the goodwill of her employer and the recruiting agency. When days off for the foreign domestic worker is still not compulsory, it becomes harder on her to seek help or attend classes regularly.

The other is the foreign wife who is married to a Singaporean and is dependent on him for sponsorship to become a citizen. The third group is the trafficked woman, who comes unwillingly or is duped into certain working conditions, to offer sexual services in Singapore.

Our recommendations

- We urge the Government to review its policies towards foreign domestic workers.
- We recommend that they are protected under the Employment Act and that their standard contracts are legally binding. This will be in line with the recommendations from International Labour Organisation.
- We also urge the Government to withdraw the regulations prohibiting marriage to Singaporeans and the regular pregnancy tests that are disrespectful to the worker.
- We urge the Government to review its position and become a signatory to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons so that we are part of the universal effort to curb trafficking.
- We also recommend that a study be done to ascertain the extent of this trafficking problem in the country.
- We urge the Government to institute and also support the mechanisms needed to protect people who have been trafficked or abused as documented workers too
- We urge the Government to share information with NGOs when it comes to arrests and investigations pertaining to potential trafficking cases as these are complicated matters. Both the State and the NGOs have much to gain to work together using the networks to apprehend recruiting syndicates.
- We urge the Government to set up a Task Force within the IMC to look at the specific issues around foreign wives.

Articles 1-4

ARTICLES 1-4

Definition of Discrimination, Law, Policy and Measures to Implement the Convention

Article 1: For the purposes of the present Convention the term “ discrimination against women” shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis or equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Article 2: State Parties condemn discrimination against women in all forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake various steps

Article 3: State parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Article 4: Adoption by State parties of temporary special measures aimed at achieving the objectives of equality of opportunity and treatment

CRITICAL AREAS OF CONCERN

1.1 The Constitution under Article 12(2) states that there is no discrimination regardless of ‘race’, language’ or religion. To date there is no provision to include ‘gender’ or ‘status’ in an effort to protect the rights of both women and men. The State’s reasons for this are dealt with in greater depth in Article 2, and 16. As such AWARE takes issue with the State’s assertion that the Singapore Constitution “enshrines” the principle of equality of all persons before the law and that the State does not make a distinction between the sexes in terms of preferring one gender over the other. To believe in equality as a principle is laudable but the State also needs to ensure that no single group is discriminated against as provided for Article 1 of the CEDAW Convention which recognizes that any action which has the effect of discrimination, (unintended as it may be), on the basis of sex constitutes as an act of discrimination.

Contradictory/ Discriminatory Practices

1.2 Single unwed mothers do find themselves facing discriminatory policies with regards to housing and other benefits. This is a direct result of their status as ‘unmarried’ mothers, which limits their access to the same opportunities as married women. This is discussed in greater detail in Article 11.

- 1.3 This principle of equality is not applied equally when it applies to foreign women who marry Singapore men who earn less, are less educated or are less skilful. The women face a tougher time in getting their status as Singaporeans.
- 1.4 As National Service is compulsory for men they are compensated by being placed, in the workforce, on higher salary scales than women at this entry point. While AWARE completely understands that men have given up valuable personal time to serve the country, it is also time to review the definitions around National Service as many women are involved in community service and volunteer work. Moreover there are many women who today are by choice working in uniformed units, be it the military, the police force or the civil defence. As such this choice of compulsory service can be extended to women and the period for National Service shortened to a year with more resources involving in preparing this small State for all forms of security issues be they infectious diseases, terrorist acts, natural disasters etc.
- 1.5 The Employment Act currently excludes ‘managerial or executive staff, confidential secretaries, seamen, foreign domestic workers, those in the civil service and those in statutory boards. This in itself is discriminatory especially when workers are residential in Singapore (this excludes seamen) and the Employment Act needs to include such officers under its protection. The State’s argument for their exclusion are not compatible as the workforce today is better educated and many do come in at the executive level and may not necessarily be empowered to handle their own grievances in the workforce and need the legalisation to protect them. There is a fuller discussion of these areas in Article 5, 6 and 11. Hence the reservations entered on Article 11 based on these grounds need to be removed. While disputes and conflicts between workers and employers are negotiated with the help of unions it is not known if certain discriminatory practices occur on grounds of gender, status, ethnicity or class when often these are not transparent enough to know either way how often such acts of discrimination do occur on the ground.

Reservations

- 1.6 The State’s rationale for its blanket reservations on Articles 2, 11 and 16 are discussed in greater detail under each Article in this report with counter-suggestion on how in Article 2 and 16 the State could withdraw its reservations¹ on specific clauses. On Article 11 the position is that the State ought to improve its

¹<http://www.ohchr.org/english/bodies/treaty/glossary.htm>

Modifications to reservations: An existing reservation may be modified so as to result in a partial withdrawal or to create new exemptions from, or modifications of, the legal effects of certain provisions of a treaty. A modification of the latter kind has the nature of a new reservation.

Safety in the Workplace² for any worker regardless of gender and hence the reservation on 11.1(f) and 11.2(d) could be removed while the Employment Act be amended to include those in executive positions and foreign domestic workers.

- 1.7 This withdrawal of blanket reservations from Article 2 and 16 will allow local laws to be amended or put in place for all women while partial reservations for a limited time will allow the State and organisations to review existing laws and circumstances to enhance the position of women, affected in any discriminatory manner under specific aspects of AMLA.

National Machinery for Women

- 1.8 AWARE applauds the Ministry of Community Development Youth and Sports for setting up the Women's Desk in 2002. The Women's desk functions as the focal point on gender policy matters and for any international cooperation pertaining to women.³ This desk functions as the Secretariat for the Inter-Ministerial Committee⁴ on CEDAW. AWARE is also appreciative of the informal dialogues that the Minister of State, Madam Yu-Foo Yee Shoon has undertaken to keep abreast with the NGOs that work on women's issues. Nevertheless AWARE feels that this Desk is highly short-handed and that the IMC needs to make its work more visible and be more engaged in dialogues on gender issues. For example AWARE and other NGOs have sent to the various Ministries their research and position papers and to date there has been hardly any effort by member of the IMC to initiate any dialoguing through its Women's Desk. Another example is the UN Security Resolution 1325 on Women, Peace and Security⁵ which to date surfing all websites of the different Ministries does not show any implementation programmes with regards to Gender Training for any Peace support operations. Singapore has sent missions to East Timor and Aceh in recent years. It is crucial that there is openness to information through the IMC to assure the constituency of measures taken in efforts at the local, regional and

² Source: http://www.bayefsky.com/pdf/austria_t2_cedaw.pdf - Austria entered partial reservations with regards to Article 11 to prohibit women in underground mines though it had also enhanced regulating work for women on the night shift in a non-discriminatory manner.

³ E-mail from Ministry of Community Development, Youth and Sports to AWARE; dated 11th May 2007. This happened after a Closed Door Dialogue session with the Ministry when AWARE asked the Ministry about the visibility and role of the Inter-Ministry Committee on CEDAW.

⁴ The Inter-Ministry Committee (IMC) on CEDAW comprises officials from various Ministries namely MCYS, Mindef, MOE, MFA, MOH, MHA, MICA, Minlaw, MOM, MND, PMO (PSD), AGC, MUIS, Syariah Court and People's Association (the largest community group in Singapore). IMC's primary role is to review and formulate policy in relation to CEDAW, monitor the views and issues raised by the relevant Ministries, and implement and coordinate CEDAW-related initiatives within their own organisations.

⁵ Security Council Resolution 1325 was passed unanimously on 31 October 2000. Resolution (S/RES/1325) is the first resolution ever passed by the Security Council that specifically addresses the impact of war on women, and women's contributions to conflict resolution and sustainable peace. The resolution recognized the disproportionate effect of conflict on women and underlined the essential role of women in prevention of conflict and as full participants in post-conflict peacebuilding and reconstruction efforts. UNSCR 1325 tasks all member states of UN to ensure that gender considerations are thoroughly intergrated into all aspects of its security work, from conflict prevention to post-conflict reconstruction; <http://www.peacewomen.org/un/sc/1325.html>

international levels. The 3P approach – people, private and public sectors – does not seem to be an approach that is very visible within the IMC

- 1.9 AWARE is also concerned at the level of sensitisation amongst the members of the IMC and how gender mainstreaming as an approach is applied at the level of policy creation among the representative staff of the IMC. AWARE is concerned that this structure(which is at least a few years old) has yet to ensure that data is gender-disaggregated in all aspects and not just through certain figures on the Ministries’ websites. It is imperative that there is a recommended policy from the IMC that gender disaggregated data is made public so that the State’s compliance with Article 3 - “full development and advancement of women in all fields of political, social, economic, cultural fields “ – is visible and shared with other policy-makers in other fields too.
- 1.10 It is a misnomer to have women’s matters under the ambit of Family and Development. This organisational structure with a small Women’s Desk that functions more as an administrative co-ordinator than an advocator makes it rather limiting for any real work with clear outcomes to be taken on board into programmes run by NGOs. The 2007 Budget allocated \$424.23 million⁶ towards the Family Development Programme, a drop from the \$435.38 million in 2006. The Family Development Programme – covering activities pertaining to marriage, parenthood, family and women, accounts for only 40.5%⁷ of the sector’s operating expenditure. Under this Programme, MCYS will set aside \$310 million for the Baby Bonus Scheme and Government Paid Maternity Leave Scheme to support and encourage married couples to have more children. Another \$85 million will be allocated for childcare subsidies to give parents greater access to quality child and infant care centres.⁸ As such much of the funds are spent on pro-creation efforts and on enhancing the family through support services. This should continue but funds are also needed to help women who are outside the family structure to develop. A breakdown of how funds are allocated by gender as a policy norm will be a useful tool to assess for any further development policies needed to enhance the potential of women and men.

Working With The National Machinery

- 1.11 Women NGOs have found the Ministry of Community Development Youth and Sports to be open, its staff highly motivated and friendly and its Minister of State and Minister keen to find solutions. In fact the six workgroups that were set up by the Ministry to look into various aspects of the women’s issues with various key women and NGOs chairing and co-chairing was a good sign for greater co-operation. But outcomes from the recommendations remain to be seen as yet. AWARE would like to persuade the well-meaning staff and motivated Ministers

⁶ http://www.mof.gov.sg/budget_2007/revenue_expenditure/attachment/MCYS_EE2007.pdf

⁷ http://www.mof.gov.sg/budget_2007/revenue_expenditure/attachment/MCYS_EE2007.pdf

⁸ http://www.mof.gov.sg/budget_2007/expenditure_overview/social_dev.html

to keep the people sector involved as much as possible of its work at the Women's Desk.

- 1.12 The Ministry has also begun to financially support programmes that bring about greater understanding between the genders. This has been most welcomed especially in getting men to be involved in Gender Equality discussions.

Treaty Incorporation

- 1.13 Singapore takes its treaties very seriously and has made the changes. One of these includes dropping the quota on entry for female students into the medical faculty, a discriminatory policy in the first place.
- 1.14 The Singapore Government ratified a key International Labour Organisation (ILO) Convention - Convention 100 on Equal Remuneration to demonstrate its commitment to equal pay for equal work. The Ministry of Manpower, the National Trades Union Congress and the Singapore National Employers Federation, issued a Tripartite Declaration on Equal Remuneration for Men and Women Performing Work of Equal Value on 6 November 2002 which paved the way for an "equal remuneration clause" to be incorporated into the collective agreements and the government has also equalized medical benefits for both male and female civil servants.

Optional Protocol to the Cedaw Convention

- 1.15 By ratifying the Optional Protocol⁹, a country recognizes the competence of the CEDAW committee to receive and consider complaints from individuals or groups within its jurisdiction and also believes in a democratic process. Singapore has neither signed nor ratified the Optional Protocol and has rationalized that it believes in a more partnership/consultative model to fulfil its human rights obligations as opposed to the more robust external accountability of individual and inter-state complaints, provisions under the Optional Protocol. As this is the State's approach then it becomes crucial that Institutions and legislation to protect women be put in place at the national level and not just depend on guidelines for employers or institute best practice models. For example, though there have been

⁹ <http://www.un.org/womenwatch/daw/cedaw/protocol/> The Protocol contains two procedures: (1) A communications procedure allows individual women, or groups of women, to submit claims of violations of rights protected under the Convention to the Committee. The Protocol establishes that in order for individual communications to be admitted for consideration by the Committee, a number of criteria must be met, including those domestic remedies must have been exhausted. (2) The Protocol also creates an inquiry procedure enabling the Committee to initiate inquiries into situations of grave or systematic violations of women's rights. In either case, States must be party to the Convention and the Protocol. The Protocol includes an "opt-out clause", allowing States upon ratification or accession to declare that they do not accept the inquiry procedure. Article 17 of the Protocol explicitly provides that no reservations may be entered to its terms."

discussions to form an Equal Opportunities Commission, the government rejected the idea because it did not want to create an “overly litigious workplace culture.”¹⁰

Temporary Special Measures

- 1.16 Temporary special measures are an important tool that can be used by the State to level the playing fields in certain sectors that need concerted attention and a problem-solving application. The Cedaw Committee has clarified that these measures are those that accelerate the achievement of gender equality and are not general social policies that support women’s rights.¹¹ It is great that the State has been also instrumental in helping to set up a Women’s Register, an initiative of the Singapore Council of Women’s Organisations, so that women leaders could be identified and nurtured. Nevertheless for a country that has many well-educated women there are still too few who have entered politics and the IMC could aid the Women’s Registry to initiate political-sensitisation training programmes for women.
- 1.17 With the rising number of foreign women marrying Singapore men it would be appropriate for the IMC to set up a task-force to review policies or the lack of, thereof, with regards to foreign wives.

RECOMMENDATIONS

Equality Provision under the Constitution

- 1.18 The Constitution needs to be amended to include no discrimination on the bases of ‘sex’ and ‘marital status’. Please see Article 2.17 where AWARE makes a similar case but arguing for the removal of blanket reservations.

Discriminatory laws

- 1.19 There should be review of the laws of the land to assess contradictions and to amend laws where necessary.
- 1.20 There is a need to enact a Anti-Discrimination law based on gender, age and race.

¹⁰ <http://www.siaaonline.org/cedaw#461> The SIIA is an institution for policy relevant research that it utilizes for policy and public advocacy and dialogue to forge closer partnerships between countries for growth and stability. It is also a founding member of the ASEAN-Institutes for Strategic and International Studies (ASEAN-ISIS) network.

¹¹ CEDAW Committee General Recommendations No 25 on Temporary Special Measures.

National Machinery for Women

- 1.21 It is important that the IMC becomes more visible and engages the women's groups often over many of the policies that have been put in place.
- 1.22 The Women's Desk needs to expand to become a department and re-named as a Gender equality Division. There should a visible focal point in each Ministry.
- 1.23 There should be gender-sensitization programmes across all ministries and in all jobs.
- 1.24 The Budget should be presented with a Gender breakdown.
- 1.25 There should be a gender disaggregated data on all policies and these should be made public.

Optional protocol

- 1.26 The State should sign and ratify the Optional Protocol.

Article 2

ARTICLE 2

State Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

- (a) *To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein, and to ensure, through law and other appropriate means, the practical realisation of this principle;*
- (b) *To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;*
- (c) *To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;*
- (d) *To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;*
- (e) *To take all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise;*
- (f) *To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;*
- (g) *To repeal all national penal provisions which constitute discrimination against women.*

CRITICAL AREAS OF CONCERN

- 2.1 AWARE appreciates the amendment to Article 122 of the Constitution of the Republic of Singapore to offer citizenship rights to a child born overseas to a Singaporean mother. This has been put into effect for children born on or after 15th May 2004. As citizenship rights issues are fundamental to being given and to seizing opportunities in society, AWARE asks that this offer of citizenship be extended to all affected children up to the age to 16 who were born overseas to Singaporean mothers.¹
- 2.2 There is much appreciation over the abolishment of the one-third quota on females who wish to enrol as medical students into the National University of Singapore. This practice has been in existence since 1979.² There have also been improvements made towards enhancing gender equity by extending medical benefit claims to female civil service officers. These came into effect in January 2005; previously, it was possible to make claims only through male civil service

¹ See Article 9.

² See discussion under Article 10.1.

officers. Paternity leave has come into effect but it is still not mandatory and applicable more often than not, to civil service officers.³

Reservations

2.3 Though important, these are still just baby steps for a First World country that has everything in its favour to be an example in the region and in its positioning as a global player. AWARE has no choice but to again express its deep disappointment at the blanket reservations on Articles 2 and 16. The blanket reservations should be removed and replaced by partial reservations. In the case of Article 2, the reservation need only apply to Article 2(f).

Article 2(f)⁴

2.4 The Government says that reservations are necessary because of the impositions from Singapore's Constitution – Article 12(2) [on equal protection before the law] and Article 152 [on minorities and special position of Malays] of the Constitution⁵ require upholding the respect of freedom of minorities with regard to how Syariah Law is administered in areas of family law. These provisions under the Constitution are necessary to maintain the delicate multi-racial and cultural balance in Singapore society, and in the light of recent discussions on terrorism, a multi-faith approach is necessary and important for harmony to be entrenched as a way of life here. AWARE does not dispute the importance of such a provision for freedom to practise and observe one's religion.

2.5 Currently, however, under the Administration of Muslim Law Act (ADMLA), there are some privileges given to Muslim men that are inconsistent with requirements under CEDAW. The following allowances under the ADMLA make it impossible for the State to comply with Article 2(f) under CEDAW.

- Polygamy – the provision that Muslim men can have up to four wives is available only to men and not to women;
- Inheritance rights favour male beneficiaries over female beneficiaries;
- Muslim women require the consent of their guardians for marriage but males do not have such requirements;
- Rights to divorce favour Muslim men over Muslim women.

2.6 Rightfully, the State argues that in order to continue guaranteeing the freedom of minorities (i.e. in this particular case, Muslim women and men) to practise their personal and religious laws, Singapore would not be able to comply fully with the obligations in Article 2(f). But it is bewildering that the State considers it a

³ See Article 11.

⁴ Article 16 is discussed in greater depth in this report.

⁵ See Appendix 2.1, the Constitution of the Republic of Singapore.

necessity to issue a blanket reservation on the whole of Article 2 instead of just Article 2(f).

- 2.7 AWARE does not agree with the Government's stand on this matter, and views this blanket reservation as being discriminatory – ironically to Muslim women. In every other aspect of their lives, Muslim women are subject to all other laws in Singapore and not just the Syariah Law, which is applied only to areas within Family Law where the religious code prevails. Reservations to Article 2 should be restricted to paragraph 2(f) to cover the terms of the law relating to marriage, divorce and other family law matters that come within the ambit of the ADMLA. Though it is a delicate operational and implementation process to make a partial reservation only on Article 2(f), it needs to be done to avoid throwing the baby out with the bathwater in terms of all women's rights, including Muslim women's other rights, and still be sensitive to certain aspects of the law when it is applied to women and men for religious purposes.
- 2.8 As such, AWARE sees no necessity to have reservations on Article 2(a), 2(b), 2(d), 2(e) and 2(g). Article 2 is the *raison d'être* for CEDAW. It is a core provision. If Singapore has a reservation to Article 2, its commitment to the object and purpose of the Convention is put into serious question.

Article 2 (a)

- 2.9 Article 2(a) requires the State to embody the principle of the equality of men and women. Minister of State Mrs Yu-Foo Yee Shoon stated in her address to the CEDAW Committee in 2001 that Singapore's policies and laws do not differentiate between men and women unless the country believes there are good reasons why it should be done e.g. only men do National Service because Singaporean society does not believe that women should take on combat roles in armed conflict. She added that universal education, opportunities to continually upgrade and the meritocratic system will facilitate this process of embodying the principle of the equality of men and women. Hence, the argument was that as a nation, Singapore already believes and embodies the principle of the equality of men and women.
- 2.10 As such, AWARE too sees no reason for Singapore to have a reservation on Article 2(a).

Article 2(b)

- 2.11 Article 2(b) requires the State to adopt appropriate legislative and/or measures prohibiting all discrimination against women. In Singapore's 2001 CEDAW report and again in the 2004 report, it was discussed that the principle of equality of all persons before the law is enshrined in Article 12(1) of the Constitution. This means that there are administrative procedures and legal recourses e.g. the appeal mechanism that is made available to any citizen, regardless of gender. There are

rules of natural justice in Singapore's judicial system that are gender-neutral, and there are also public channels for complaints to be lodged by both genders when rights are violated.

- 2.12 As such, AWARE sees no reason for Singapore to have a reservation on Article 2(b).

Article 2(c)

- 2.13 Article 2(c) requires the State to establish legal protection of rights on an equal basis with men. In Singapore's 2001 and 2004 CEDAW reports, it was stated that violations of women's rights could be addressed under relevant rules applicable to that field. The Singapore CEDAW representative pointed out that there are penal provisions that protect the rights of women. With regard to violence, there are provisions in the Penal Code for crimes ranging from simple to grievous hurt (sections 319-338), culpable homicide, murder (sections 299-311), criminal force or assault (sections 349-358). The law takes into account the serious nature of assaults against children, spouses and domestic workers (section 73 of the Penal Code addresses crimes committed by employers against domestic workers or members of the household).⁶

- 2.14 That being the case, AWARE sees no necessity for Singapore to maintain a reservation to Article 2(c).

Article 2(d), (e), (g)/Sexual Harrassment Laws

- 2.15 There is still no proper mechanism to protect individuals against discrimination in Singapore. Laws against sexual harassment have yet to be tabled. There is no sexual harassment law per se in Singapore. There are indeed sections of the Penal Code⁷ which might criminalize certain dimensions of sexual harassment, but these are far from sufficient. Chapter XVI of the Penal Code criminalizes conduct ranging from causing hurt; wrongful restraint; force; assault; rape; to incest. However, these criminalized conduct require certain specific elements, for instance, force. Sexual harassment may occur without force, or even the threat thereof being involved.
- 2.16 Criminal intimidation⁹ and anonymous criminal intimidation¹⁰ require the element of threat of injury. Sexual harassment might involve subject-matter (such as disturbing sexual comments) not strictly 'threats'; or they may constitute threats, but which do not qualify as threats *of injury*, that is, simply that of stalking

⁶ See Appendix 2.2.

⁷ *Penal Code*, Chapter 224.

⁹ S503, *Penal Code*

¹⁰ S.507, *Penal Code*

- behavior, or voyeurism, etc. Hence, while potentially useful in certain instances of sexual harassment, criminal intimidation is otherwise still insufficient protection against sexual harassment.¹¹
- 2.18 Ironically, while reforms¹² to violations of s.509 by an employer against his/her foreign domestic worker have been enhanced by 1.5times the permitted maximum penalty for that crime, female citizens and foreign women working in other fields are left with the basic one year maximum penalty. While it is highly laudable that the penalties for offences against foreign domestic workers have been enhanced as they are more vulnerable working in the homes of the employers and may be isolated from colleagues, it is also time to recognize the less than satisfactory checks against sexual harassment for Singapore citizens and foreigners who are working here. Moreover the Employment Act¹³ does not contain any provision protecting women (or men) from sexual harassment at work and as it excludes women and men who are employed in “managerial, executive or confidential positions”¹⁴, the only recourse will lie in the Penal Code, S 503, which does not address this adequately either.
- 2.16 As such, AWARE argues that it is crucial to remove the reservations on Article 2(d), (e) and (g) to complement the proposed Constitutional changes to Article 12(2) to prohibit and eliminate gender discrimination. With such provisions it will be possible to have a mechanism to monitor anti-discriminatory provisions within the legislation.

RECOMMENDATIONS

Constitutional amendments

- 2.17 The Constitution should be amended to include no discrimination on the basis of Sex and Martial status. Article 12(2) and Article 16(1) of Singapore’s Constitution need to be amended by inserting the word ‘sex’ and ‘martial status’ before the word ‘descent’ in Article 12(2) and after the word ‘race’ in Article 16(1). The constitutional changes that AWARE is advocating should read as follows:

Article 12(2): Equal protection

¹¹ See further Appendix 16 for detailed argument

¹² S.73 (1)(d) & 73(2), *Penal Code*

¹³ *Employment Act*, Chap. 91

¹⁴ s.2, *Employment Act*

¹⁷ Even if the common law did develop to such effect in limited fields of law where gender discrimination comes into issue, the evolving and variable rules of common law which is judge-made cannot be considered reasonable substitution for the entrenchment of the right of women to non-discrimination in the Constitution, the supreme law of the land.

Except as expressly authorised by this Constitution, there shall be no discrimination against citizens of Singapore on the grounds only of religion, race, sex, martial status, descent or place of birth in any law or in the appointment to any office or employment under a public authority or in the administration of any law relating to the acquisition, holding or disposition of property or establishing or carrying on of any trade, business, profession, vocation or employment.

Article 16(1): Rights in respect of education

Without prejudice to the generality of Article 12, there shall be no discrimination against any citizens of Singapore on the grounds only of religion, race, sex, martial status and descent or place of birth...

- 2.17 It is untenable and incongruous that gender should not be a basis of discrimination but that race, descent or place of birth are grounds for protection. Given that Singapore has evolved to a higher level of gender equality in some areas and that the patriarchy is received with more impatience, it is impossible not to recognize such women's and men's rights in the Constitution. In fact this short-sightedness is also causing an additional hurdle in passing subsequent legislation, for instance in the field of employment law, to protect women against discrimination. Courts would also be less ready to extend the common law to proscribe gender discrimination unless there is a basis in the Constitution clearly spelling out such rights¹⁷. Therefore such an amendment would first and foremost signal Singapore's commitment to gender equality. Next, it would dispense with the need to amend other legislation, as all other legislation infringing the above would be *ultra vires*¹⁸ the Constitution. For example this hurdle to other amendments is clearly shown in Singapore's inability to ratify Convention No 111 under the International Labour Organisation.¹⁹

Legislation against gender discrimination

- 2.18 When Singapore's CEDAW representative was asked by the Committee why "gender" had not been included in Article 12(1) of the Constitution, it was stated that the issue of whether Article 12 included non-discrimination against women had not arisen in Singapore Courts.²⁰ There are cases in the Commonwealth that

¹⁸ From Latin, meaning *beyond the legal power*.

¹⁹ [www.http://www.ilo.org.ilolex/cgi-lex/ratifie](http://www.ilo.org/ilolex/cgi-lex/ratifie)

Singapore – au contraire to 165 other ratifying states¹⁹, has not ratified the 1958 Discrimination (Employment and Occupation) Convention (No. 111) of the International Labour Organization.

²⁰ See Article 11 for discussion on the dismissal of pregnant women in workplaces; see also Articles 7, 10 and 11 where the number of women at the top is disproportionately smaller for an equally ambitious, educated and talented female workforce.

have a similar legal heritage and are similar to Article 12(1). Another alternative is to have specific legislation against gender discrimination. Some examples include the British Sex Discrimination Act 1975²¹ or Australia's Sex Discrimination Act 1984²².

- 2.19 Such an Act would not only make unlawful certain kinds of discrimination on the grounds of sex and marital status, but also provide effective remedies against such discrimination and promote equality of opportunity between men and women and deal with other related matters. To attain this, the Australian Act created a Commissioner of Equal Opportunity and a Sex Discrimination Board with a Registrar²³. The Act also establishes criteria for sex discrimination in employment and in other fields such as education, goods, services and premises. The Act also provides for the enforcement of its orders and enforcement of personal remedies. The necessary amendments could be made to suit local culture and conditions.
- 2.20 AWARE is of the opinion that Singapore too can have such legislation to protect its citizens from discrimination.

Mechanism for monitoring legislation for discriminatory provisions

- 2.21 The 2001 CEDAW Committee also queried whether Singapore had a mechanism for monitoring legislation for discriminatory provision in Singapore. In reply (see Section 2.19), it was stated that in view of Article 2 of the Constitution [the Constitution is the supreme law and any laws enacted that are inconsistent with the Constitution shall, to the extent of the inconsistency, be void], other legislation, if unconstitutional, would be struck down on grounds of invalidity. Both legislative enactments and decisions of the Executive can be challenged via a process of judicial review. In addition it is also rather bizarre this assumption that legislative action should be triggered by action taking place in the court. The Constitution is the supreme law²⁴ and contains the rights of citizens²⁵; and the legislature and the judiciary are two separate arms of government. As such there is really no reason for the legislature to await reminders from the court before taking the initiative to recognize the rights of women in Article 12(2).

- 2.22 Despite the explanations given above, there seems to be no institution in

²¹ See Appendix 2.3 for a description of the Sex Discrimination Act 1975, also available at <http://www.eoc.org.uk/PDF/sda.pdf>.

²² See Appendix 2.4 also available from http://www.hreoc.gov.au/info_for_employers/law/index.html#sex.

²³ See Appendix 2.4

²⁴ *Constitution of the Republic of Singapore*, Article 4.

²⁵ Part IV of the *Constitution*, "Fundamental Liberties".

- 2.22 Singapore that protects citizens against discrimination. As stated earlier, an amendment to Article 12(1) of the Constitution would be a step in the right direction. Alternatively, a Sex Discrimination Act (see previous section) could be discussed and debated. [These, among others, are some suggestions that have already been made by the CEDAW Committee on discriminatory laws on the basis of sex, and AWARE hopes to see this implemented soon in Singapore.]²⁶

Other recommendations

- 2.23 Singapore needs to become a signatory to the Optional Protocol on CEDAW.
- 2.24 Singapore should be involved in educating women on CEDAW as much as it has done for the Convention on the Rights of the Child, and support such educational programmes on constitutional rights, human rights and women's rights.
- 2.25 The Women's Desk needs to be transformed into a fully-fledged independent department called the Gender Equality Division if it is to achieve a gender mainstreaming approach. It has to be policy-driven rather than act as a mere coordinating body under the Family Services Division.
- 2.27 Gender-disaggregated data needs to be shared with others and there should be a higher level of transparency.

²⁶ Concluding observations of the CEDAW Committee: Singapore, A/56/38;
<http://www.unhcr.ch/tbs/doc.nsf/Symbol/6b93b29159a5ec2cc1256acc004e3046?Opendocument>.

Article 5

ARTICLE 5

SEX ROLE STEREOTYPING AND PREJUDICE

State parties shall take all appropriate measures:

- (a) *To modify the social and cultural patterns of the conduct of men and women, with a view to achieving the elimination of prejudices, customs and all other practices which are based on the idea of the inferiority or superiority of either of the sexes or on stereotypical roles for men and women;*
- (b) *To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.*

5.1.1 While it is true that improvements have been made in education, work and family for the Singapore woman today, there is still much room for improvement in these areas. The unresolved issues include the disproportionately small number of women in higher decision-making positions within government and government-related organisations, the skewed work-life balance that continues to demand greater domestic contribution by women compared to men and the persistent gender-stereotyping in the media despite regulations set up to control this. These topics are introduced via an overview in this Article and are addressed in greater detail in other Articles.

5.1.2 There are about 160,000 foreign domestic workers in Singapore, who come from the Philippines, Indonesia, Sri Lanka, India and Myanmar. Singapore has one foreign domestic helper for every seven households. What is prevalent is the constant undermining of domestic work and the person who does it – the foreign domestic worker – by way of how her services are valued or promoted. This happens at both sender and receiver country levels: foreign domestic helpers are classified as ‘maids’, marketed as products and paid ridiculously low wages for the work they do. This objectifying of female domestic workers is inconsistent with approaches taken by the Government to encourage husbands and fathers to take on a bigger role in the home and employers to value the work done at home by Singapore women.

CRITICAL AREAS OF CONCERN

Media

Local TV programmes encourage gender stereotyping

5.3 Local television programmes such as the very popular sitcoms Phua Chu Kang and ABC DJ¹ are premised on humour that perpetuates the gender stereotypes of women

¹ Locally produced sitcoms that are aired over the free-to-air channels.

and men. Women are cast in stereotyped roles such as shopaholic housewives or clothes-horses, with personalities that are vain, sexy, superficial, manipulative, scheming or nagging. The males are depicted in stereotypical roles such as workers who use brawn and/or brain (building workers or architects), or as personalities who are sloppy, have poor hygiene habits, are lewd, chauvinistic and loud, and need a woman to 'look after' them. The humour is usually based on how genders relate to each other.

Advertisements and negative body imagery

- 5.4 Although paragraph 5.12 of the Government's Third Report to CEDAW² states that the Media Development Authority (MDA) provides guidelines against gender stereotyping and sexual discrimination, a random survey conducted by this Report on advertisements both in print (e.g. the Straits Times newspaper) and on air (e.g. television) reveals a clear difference in the messages directed at men and women.
- 5.5 Many beauty product advertisements use misleading or unduly pressurising techniques to persuade their audience to buy their products³. The Consumers Association of Singapore's (CASE) annual survey⁴ reported 46 complaints of unfair practices (such as making false claims or using undue pressure to persuade consumers to purchase products) against the beauty industry following implementation of the Consumer Protection (Fair Trading) Act (CPFTA) on 1st March 2004⁵. The beauty industry was the third highest-ranking industry in terms of the number of complaints CASE received⁶.
- 5.6 These alarming trends in the beauty industry of using false or pressurising messages and gender stereotyping targeted mainly at women have serious consequences for women's well-being, particularly their physical and mental health⁷. They create self-image problems, especially in young women, and lead to eating disorders or other drastic (such as plastic surgery) or even dangerous measures to achieve unrealistic "ideals"⁸.

² Singapore's Third Periodic Report to CEDAW 2004.

³ *Check the misleading claims in beauty ads*, Straits Times, 30 June 2006.

⁴ From 1 March 2004 to 28 February 2005.

⁵ See Appendix 5.1. Consumer Protection (Fair Trading) Act: Case Statistics. <http://www.case.org.sg/development.htm>.

⁶ See Appendix 5.1.

⁷ Healthyplace.com. Medical Complications and Consequences of Eating Disorders. www.healthyplace.com/communities/Eating_Disorders/consequences_2.asp.

⁸ The Michigan Daily [Online], Media images may harm viewer psyche, 1 January 2005. <http://media.www.michigandaily.com/media/storage/paper851/news/2005/01/20/>

- 5.7 Slimming and bust-enhancement advertisements target women almost exclusively and perpetuate the stereotype that attractive women are slim or big-breasted. These commercials portray an unrealistic “ideal” woman and urge women to lose weight or increase their bust size through unhealthy ways such as plastic surgery or quick-fix diets. Further, they encourage a value-system of women based on physical attributes instead of other qualities such as personality and character. In contrast, the slimming advertisements for men focus on exercising. This was clearly seen from two randomly sampled issues of the Strait Times newspaper (7th and 8th March 2006) which this Report looked at, which carried nine half-page sized and two quarter-page sized slimming or bust enhancement advertisements, all targeted at women, and one body toning advertisement targeted at men. These examples clearly show that the regulations set down by the MDA cited in paragraph 5.12⁹ are not well-enforced and that advertisers and commercial companies continue to exploit this lax approach to their own benefit.
- 5.8 AWARE believes that the media plays a significant role in shaping the self-perception of women in Singapore. A survey of 2,000 Singaporean women¹⁰ found that almost one-third (29%) of the women were not satisfied with their physical appearance. The survey further shows that among Asian women, Singaporean women appeared to be among the least satisfied with their bodies¹¹.
- 5.9 This negative self-image could be the reason for the increase in the number of Singaporean women undergoing plastic surgery¹² or suffering from various eating disorders¹³ (e.g. anorexia). A survey by the International Society of Aesthetic Plastic Surgery Statistics in 2003 (no data is available for 2004) showed that Singapore ranked 22 globally in the number of plastic surgery procedures done –5,192. Of these, 86.33% involved females¹⁴, an increase from 80.2% in 2002.¹⁵ Several renowned Singaporean plastic surgeons have also reported an increase in the number of patients

⁹ Singapore’s Third Periodic Report to CEDAW 2004.

¹⁰ See Appendix 5.2. Dove Support [Online]. Comprehensive New Study of Asian Women's Attitudes, 2005. <http://www.campaignforrealbeauty.com.sg/supports.asp?id=3030&length=short§ion=campaign>

¹¹ See Appendix 5.2.

¹² Mediacorp News. *Why young Singaporean women need new and healthier role models of success and beauty*. 30 May 2005. <http://www.channelnewsasia.com/stories/analysis/view/150069/1/.html>.

¹³ Kok LP, Tian CS (1994) *Susceptibility of Singaporean Chinese schoolgirls to anorexia nervosa*—Part I (psychological factors). *Singapore Medical Journal* 35: 481–5.

¹⁴ International Society of Aesthetic Plastic Surgery Statistics 2003 and 2004. <http://www.isaps.org/Stats2003Res.asp>. See Appendix 5.3

¹⁵ See Appendix 5.3

over the years¹⁶. As many as 1,200 women per year have breast enhancement surgery¹⁷.

- 5.10 The number of women suffering from eating disorders has also increased. A recent local study showed that the number of patients seeking help for eating disorders has increased sixfold since the 1990s¹⁸. In 2002, the Eating Disorder Clinic (Singapore Institute of Mental Health) reported¹⁹ three or four new anorexia or bulimia cases every week, compared to seven to eight patients a year in 1994. Extrapolated data on bulimia nervosa incidence suggests an incidence of approximately 24,000 cases in Singapore in 2004²⁰. Approximately one out of every 100 adolescent girls in Singapore develops anorexia nervosa.
- 5.11 Left unchecked, this increasing prevalence of eating disorders and poor self-image in Singaporean women could result in a mentally and physically unhealthy female population, with serious ramifications for the general society in Singapore, such as the breakdown of family units.

Advertisements and gender stereotyping

- 5.12 A study by Chun Wah Lee in 2004²¹ analysed gender stereotyping in the commercials aired on Singapore's most-watched English-language television channel. It found that significantly more male characters were portrayed in professional roles and situations, whereas more females were portrayed in domestic roles and situations. Female actors were used to promote mostly home, food or body products, whereas males were used for automotive, electronic and telecommunication products. Further, females were more likely to be shown as product users, whereas males were portrayed as product authorities. Twice as many commercials used male voice-overs as those using female voice-overs.

¹⁶ Independent Online. Plastic surgery booms in Singapore. 25 April 2006 <http://www.iol.co.za/>. *Singapore girls pay the price for plastic perfection*, Straits Times, 25 April 2006.

¹⁷ *Have you checked your implants lately?*, Straits Times, 17 April 2005.

¹⁸ *Slimming centres must follow health guidelines*, Straits Times, 5 May 2005.

¹⁹ Ezy Health [Online]. *The desire to be thin*. <http://www.ezyhealth.com/ezyhealth/articles/>.

²⁰ This figure is extrapolated from an incidence of 0.55% among the sample group to the general population and includes anyone already suffering from, or newly found to be suffering from bulimia in 2004. Wrong Diagnosis [Online]. Statistics by Country for Bulimia Nervosa, 2004: http://www.wrongdiagnosis.com/b/bulimia_nervosa/stats-country.htm.

²¹ Lee, Chun Wah (2004). *Gender Role Stereotyping in Television Commercials: The Case of Singapore*. Advertising & Society Review, Volume 5, Issue 3. http://muse.jhu.edu.myaccess.library.utoronto.ca/journals/advertising_and_society_review/v005/5.3lee.html, last consulted on March 31, 2005.

- 5.13 Overall, these findings showed the perpetuation of the traditional stereotype that the role of a female is predominantly that of a child bearer and homemaker. This does not reflect the real situation in Singapore today, since more women are active in the workforce (see Article 11 for further discussion) and more men are contributing to housework. Despite this, advertisers continue to use traditional gender stereotypes in their commercials, ignoring the aspirations of women and men alike.

Job advertisements

- 5.14 A survey of job advertisements by this Report in the Straits Times newspaper also reflected gender stereotyping. For example, nursing job advertisements use female models²² and most service or customer-related job advertisements emphasise a “female-friendly environment”. However, it should be noted that nursing degree advertisements are generally less biased and also reach out to male audiences. Existing guidelines by the Ministry of Manpower, the Singapore National Employers’ Federation and the National Trade Union Congress²³ do not allow the specification of criteria that discriminate based on gender (except for well-grounded reasons) and marital status (among other criteria) in job advertisements, but employers clearly circumvent this regulation by indirect methods such as using models of a certain sex, as mentioned above. Therefore, these guidelines do not fully address the issue of gender stereotyping, and allow employers to exploit loop-holes for their own purposes.
- 5.15 AWARE also notes that the Tripartite Alliance for Fair Employment Practice (TAFEP), a joint initiative between the Singapore National Employers’ Federation (SNEF) and National Trade Union Congress (NTUC) and Ministry of Manpower (MOM), has drafted and published the Tripartite Guidelines on non-discriminatory job advertisements.
- 5.16 The Guidelines forbid, inter alia, gender and marital status requirements in job advertisements but allow for qualified exceptions to this rule. Subsequent to these Guidelines being published, the Tripartite Action Group (TAG) - spearheaded by SNEF and supported by NTUC and MOM - has set about promoting the adoption of the Tripartite Guidelines on Non-Discriminatory Job advertisements. To secure the commitment of employers to these Guidelines, TAFEP has launched a Pledge of Fair Employment Practices, which organisations are encouraged to voluntarily endorse, as a sign of their commitment to the cause. To date, about 330 employers, including various Chambers of Commerce and other employer federations, have come on board.²⁴ These are encouraging initiatives but the monitoring of this still small number of companies who have committed to a pledge, will be difficult to manage and there will be resistance to any form of

²² See examples of adverts from the Straits Times, 8 and 11 March 2006.

²³ See Appendix 5.4. Tripartite Guidelines on Non-discriminatory Job Advertisements. <http://www.mom.gov.sg>.

²⁴ <http://www.sgeemployers.com/>

‘shaming’ and ‘naming’. It is therefore questionable whether such a “promotional approach”²⁵ to preventing gender discrimination in job advertising is truly effective.

Violence, Rape and Divorce

5.17 While paragraph 5.16 of the Government’s Third Report to CEDAW²⁶ discusses the measures it has taken to address violence against women, there remain areas of concern, including the rising incidence of divorce, childhood physical and sexual abuse, and violence against females in Singapore. This is discussed in greater detail in Article 16.

Maternity and paternity leave

5.18 While AWARE acknowledges the Government’s efforts in this area, these remain as areas of concern, especially practices that perpetuate the perception of the female as the main caregiver in the family, and discriminatory practices against pregnant employees. This is discussed in greater detail in Article 11.

Foreign Women

5.19 Female domestic workers are often referred to as “maids”, with agents displaying them as objects in their shops or marketing them as products that can work very well and will be at one’s beck and call. The foreign domestic workers are also often shown as having ‘unique selling points’, such as not requiring a Day Off, as in a recent advertisement that was displayed in an agency window.²⁷

5.20 Foreign women who come here to look for local husbands are also marketed in the match-making agencies as being “dutiful”, “virgins with medical certification”, “can keep one happy” and slim and pretty. AWARE did undercover research on agencies marketing Vietnamese women as brides²⁸. The research showed that these agencies stereotype Vietnamese women in terms of submissiveness, servitude and sexiness that run contrary to how Singapore women perceive themselves as women. These two forms of portrayal of women for marriage are divisive and run counter to any education on gender equality or roles within a marriage. This lack of governance over

²⁵ As characterized by the Minister of State for Manpower (Mr Gan Kim Yong) in a Parliament Session in March 2007. Available at

<http://www.parliament.gov.sg/>

²⁶ Singapore Government’s Third Periodic Report to CEDAW 2004.

²⁷ The media and NGOs have raised this issue. In one instance, local NGO Transient Workers Count Too wrote to an agency and asked it to take down its advertisement and also shared its thoughts with the proprietor on how it was degrading women. <http://www.pekingduck.org/archives/000416.php>.

²⁸ AWARE’s report on Foreign Brides: *Beyond Happily Ever After*, published November 2006. See further discussion under Article 6.

such marketing practices²⁹ of match-making agencies must be rectified. In fact, despite such calls for governance and laws there is a recent incident of a match-making agency offering 15 China brides for free to potential grooms (without agency fees for the introduction or the match) as a gesture to celebrate its 15 years of business!³⁰ AWARE understands that the Consumer Association of Singapore (CASE) has received many complaints against match-making agencies from customers. However without severe punitive measures against such agency owners and gender-sensitisation programmes it will be only more cases on record.

RECOMMENDATIONS TO THE GOVERNMENT

Media

Advertising guidelines

- 5.21 The Consumer Association of Singapore (CASE) should actively assume its role in regulating the perpetuation of gender stereotyping in the media. The general principles on advertisement based on the Singapore Code of Advertisement Practice³¹ used by the existing agency that governs advertising guidelines (the Advertising Standards Authority of Singapore (ASAS)) are too broad-based and do not include regulations or standards that prevent or discourage negative body imagery. The ASAS should form a task force to review the guidelines that address female body imagery in the media.
- 5.22 The Women's Desk within the Ministry of Community Development, Youth and Sports should form a multi-agency task force to review the media's portrayal of girls, boys and foreign women and make recommendations on how to counter this negative impact.
- 5.23 The Government should insist on stricter enforcement of the existing guidelines by the MDA on gender discrimination.

Positive role models

- 5.24 The Government should actively encourage and facilitate the portrayal of positive female role models to develop positive gender-role education in both children and adults and be proactive in seeking to support campaigns from grassroots organisations.

²⁹ See Appendix 5.5. for summary on the Foreign Brides report by AWARE, Singapore.

³⁰ *With No Clear Markers, Women Will Be Exploited*. The New Paper, 17 April 2007.

³¹ See Appendices 5.6 and 5.7. <http://www.case.org.sg/asas1.htm>.

Education on healthy positive body image

- 5.25 The Government should incorporate educational programmes into school curricula to educate the youth about the importance of healthy self-esteem and self-perception, and the dangers of trying to achieve unrealistic ideal bodies through unhealthy or dangerous methods such as plastic surgery or crash diets.

Job advertisements

- 5.26 The Government should actively promote equal employment opportunities for women in the workforce and establish policies that discourage discrimination against women in terms of career opportunities.
- 5.27 At the same time, the Government should review the existing Tripartite Guidelines on Non-discriminatory Job Advertisements by the Ministry of Manpower, the Singapore National Employers' Federation and the National Trades Union Congress³² to address loopholes and provide stricter enforcement of these guidelines. It is time to look at the setting up a Commission to ensure that access to opportunities are not derailed by either overt or covert advertisements with regards to discriminating against anyone because of their gender, status, race or language capabilities when it is not crucial to the role as advertised.
- 5.28 The Government should ensure that human resource personnel are properly trained to adhere to the guidelines set down by the Ministry of Manpower, the Singapore National Employers' Federation and the National Trades Union Congress³³. The guidelines are designed to prevent discrimination when hiring, promoting and retaining employees based on a candidate's family responsibilities, including caring for a child or other family member. Human resource personnel should also be trained to avoid asking questions in an interview on how the candidate plans to balance work and family commitments, and whether she has a family or plans to start a family.

Violence, Rape and Divorce

- 5.29 The Government should establish stronger legislation against acts of violence and rape against women and provide more protection for women in these situations. At the same time, the Government should actively encourage a change in society's mindset on rape, violence and women's social status through public education and campaigns³⁴.

³² See Appendix 5.4. <http://www.mom.gov.sg>.

³³ See Appendix 5.8. Tripartite Guidelines on Family Friendly Workplace Practices. <http://www.mom.gov.sg>.

³⁴ See further discussion under Article 16.

Maternity and paternity leave

5.30 The Government should review existing parental leave policies in employment settings to complement or replace maternity leave³⁵. It also needs to work even harder to portray men as positive role models in the home and work towards positive imaging of expectant mothers in the workforce. This approach could be more conducive to accepting both men and women as equals in the workplace and in the home.

³⁵ See also discussion under Article 11.

Article 6

ARTICLE 6

TRAFFICKING AND EXPLOITATION OF PROSTITUTION OF WOMEN

State parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution.

- 6.1 AWARE recognises the efforts made by Singapore to suppress trafficking of women and children. Nevertheless there is evidence that Singapore remains a destination and transit country for the trafficking of women and children for the purpose of prostitution¹, as well as for selling and buying of babies and children for adoption². Singapore citizens are also clients for sex tourism with children and women outside Singapore³.
- 6.2 One could also argue that under UN definitions, some of the cases among the 160,000 foreign domestic workers can constitute trafficked cases. The Women's Charter⁴, however, is not explicit in its definition of trafficking with regard to the breach of employment terms outside of the fields of prostitution and marriage.
- 6.3 It is extremely difficult to collect accurate data and there are no universally agreed estimates on trafficking, but the US State Department estimates that 225,000 women and children have been trafficked in South-East Asia alone. The Singapore Government believes such cases to be extremely rare in Singapore⁵. While statistics are hard to pin down, AWARE believes that there are many cases of trafficking and that the Singapore Government is not engaging well and deeply enough. AWARE argues that as the trafficking of women and children – especially into the sex industry – is so traumatising, the Government ought to take heed of this rising trend.

¹ See *Trafficking in Persons Report* by US State Department 2005-2006, issued on 5 June 2006; Protection Project country report on Singapore: <http://www.protectionproject.org/>; ECPAT country database on Singapore; UNIFEM East and South East Regional Office, Bangkok and the United Nations Inter-Agency Project on Human Trafficking in the Greater Mekong Sub-region.

² *Now it's baby trafficking in Singapore* Arlina Arshad, The Straits Times 15 May 2006.

³ See ECPAT country database on Singapore: <http://www.ecpat.net/eng/index.asp>; study by Johns Hopkins University cited in *Laying down the law on child-sex tourism* The Straits Times, 19 March, 2006; *Beyond Borders: Sex with Children – Implementing Extra-Territorial Legislation for Singaporeans*, an AWARE position paper published in September 2006.

⁴ See Appendix 6.1, Section 141 of the Women's Charter.

⁵ Comments on the 2004 Trafficking in Persons Report on Singapore by the United States Department of State, by the Singapore Government, paragraph 8.

CRITICAL AREAS OF CONCERN

Trafficking

Definition of trafficking

- 6.4 Singapore carries out thorough checks at all immigration checkpoints, and prosecutes and deports those attempting to enter Singapore illegally⁶. Likewise, persons found overstaying are prosecuted and deported.
- 6.5 Unfortunately, however, the problem of trafficking is not simply an immigration matter. Women who enter Singapore legally may have been promised employment as a foreign domestic worker or in the service industry, for example as a waitress in a restaurant, or may have even been promised the prospect of marriage. Where the woman is subsequently forced into prostitution, or what is tantamount to slave labour in some instances, she becomes a trafficked person, even though she had entered the country ‘voluntarily’ and now faces and endures breaches in her contractual agreement.
- 6.6 Singapore continues to apply a narrow definition of ‘trafficking’ which AWARE believes limits its ability to uncover instances of trafficking. In Singapore terms, it is a question of consent: trafficked persons are ‘unwilling parties’ while ‘willing parties’ are immigration offenders who enter Singapore to work illegally, either on valid immigration passes or by being smuggled in⁷. The United Nations defines trafficking much more widely to include women who are brought in under false pretences and then forced to work as prostitutes, abused labourers or domestic workers.⁸ Singapore is not a signatory to this Protocol.
- 6.7 In the case of children, the situation to determine trafficking is much more clean-cut. The UN Office on Drugs and Crime states that children under 18 cannot give valid consent to the initial stage of trafficking; thus any recruitment, transfer, harbouring or receipt of children for the purpose of exploitation is trafficking and is criminal⁹.
- 6.8 By defining trafficking so narrowly, Singapore risks:
- (a) Missing the opportunity to prosecute those responsible for trafficking, while at the same time,
 - (b) Treating genuine trafficking victims as offenders instead of victims.

⁶ Under the Immigration Act 12 of 1959, Chapter 133. See Appendix 6.2.

⁷ Comments on the 2004 Trafficking in Persons (TIP) Report on Singapore by the United States Department of State, by the Singapore Government, para. 4.

⁸ UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Article 3. See Appendix 6.3.

⁹ *What if the victim consents? Can children consent?* UN Office on Drugs and Crime website – section on Trafficking in Human Beings. http://www.unodc.org/unodc/en/trafficking_victim_consent.html.

Singapore makes its position on trafficking clear in its comments in the Third Periodic Report to CEDAW: “Singapore’s tough stance against illegal immigrants, whether they were trafficked or had entered Singapore of their own volition... is well-known”.¹⁰ Clearly in Singapore, being trafficked is not a defence for being an illegal immigrant.

- 6.9 While recognising that Singapore does much to prevent persons being trafficked from entering Singapore by having strict border controls, AWARE is concerned that once inside the country, trafficked women risk being regarded as immigration or prostitution offenders, and not victims.
- 6.10 Another problem of Singapore’s definition of trafficking is that not all cases of human trafficking is recorded as such in official reports. In fact, it appears that where there is no prosecution or criminal charge raised, the Singaporean authorities will not count allegations of human trafficking in their statistics. This does not necessarily mean that the alleged victim was not trafficked, but it reflects the difficulty in prosecuting trafficking cases. Often the victim is too frightened to identify the trafficker or the trafficker has gone to ground. Or the victim herself has been repatriated before a criminal case can be brought under other charges. When prosecutions are brought, the traffickers are usually tried under charges such as living off the earnings of prostitution, running an illegal brothel or immigration offences – and not trafficking, despite provisions against trafficking in the Women’s Charter¹¹.

Foreign Brides

- 6.11 The case of ‘mail-order’ or ‘instant’ brides is yet another potential form of trafficking that is often not officially recognised. There have long been marriage brokers who assist in matchmaking Singapore men with brides from overseas, but this ‘service’ has now been developed further to include ‘instant bride tours’¹² together with a demeaning public message, as was the case in one exhibition of Vietnamese brides for instant marriages, where the women were marketed as a commodity to be bought and sold¹³. In Vietnam, the government has cracked down on marriage brokers organising contacts between Vietnamese women and foreigners seeking brides in Vietnam, believing that some women “are being tricked or forced by unscrupulous agents into marriage”¹⁴, in other words,

¹⁰ 2004, para 6.2.

¹¹ See Appendix 6.1. Women’s Charter, chapter 353, section 140.

¹² *Still looking for a Singapore husband* by Theresa Tan, The Straits Times, 4 March, 2005.

¹³ *How much for that bride? Sale, exhibition of Vietnamese ‘instant brides’ seen as exploitation by some, blessing by other*” by Tran Dinh Thanh Lam, Today, 2 April, 2005. See wider discussion on image of women in Article 5.

¹⁴ *Still looking for a Singapore husband* by Theresa Tan, The Straits Times, 4 March 2005.

trafficked. Singaporean matchmakers appear to be unmoved by the allegation and have continued business in Vietnam. In 2005, there were estimated to be 10 agencies offering such services in Singapore¹⁵.

- 6.12 The lack of governance over this business is worrisome, both in that women who are trafficked are married off to be unwilling wives, or in other cases, forced into the vice trade. In one case in December 2005, a married Singaporean man cheated a matchmaking agency by issuing a dud cheque to purchase a young Vietnamese ‘bride’ who was already present in Singapore¹⁶. After registering online for a solemnisation date at the Registry of Marriages, the man ‘tried out’ his wife-to-be for sex and then dumped her. He was caught and charged with cheating the agency for which he was jailed for four and a half years. The woman, who had lost her virginity and dignity, was sent back to Vietnam by the agency. While the woman had clearly entered Singapore of her own volition and was seeking marriage, she had clearly not ‘consented’ to five days as a sex slave.¹⁷

Foreign Domestic Workers

- 6.13 In the case of Foreign Domestic Workers (FDWs), the working conditions in some instances are akin to being held captive and bound to a situation that arises primarily from being indebted to recruitment and placement agencies. Forgoing salaries for months¹⁸, working for long hours, performing a multitude of tasks, being treated badly and being held incommunicado from one’s own country folk is a form of servitude. This is borne out by the number of migrant workers who seek refuge at shelters, or who officially complain against their employers or agencies. More than 400 cases have been recorded between just two NGOs, of domestic workers who were not given any Day Off or access to friends via the phone regularly.¹⁹ Fifty-seven foreign domestic workers had to be sheltered while waiting for their cases to be settled over wage disputes.²⁰

¹⁵ *Still looking for a Singapore husband* by Theresa Tan, The Straits Times, 4 March 2005.

¹⁶ *Will I get pregnant? Did I catch sex disease?* by Dawn Chia, The New Paper, 27 March, 2006.

¹⁷ See further discussion in Article 5 and Appendix 5.5 for a summary of AWARE’s report on Foreign Brides *Beyond Happily Ever After*, published November 2006.

¹⁸ Transient Workers Count Too (TWC2), a local NGO that looks into the well-being of migrant workers from an advocacy and research point of view, recently released a study called “Debts, Deductions and Delays” that clearly showed workers paying off debts for two to nine months. These problems are not all Singapore-centric as they also involve sender countries’ governance issues. See Article 11.

¹⁹ TWC2, Archdiocesan Commission on Migrant and Itinerant Workers (ACMI) and Humanitarian Organisation for Migration Economics (HOME) are three non-governmental organisations in Singapore that look into the well-being of migrant workers. These figures are from HOME and TWC2.

²⁰ HOME and ACMI run a shelter together with the embassies of the Philippines and Indonesia.

- 6.14 The issue that FDWs do not have a mandatory Day Off increases the vulnerability of domestic workers who in unfortunate cases are with employers who are unscrupulous as it also means that they have little access to seek help or to find out more about what they could do to help themselves. The State has always argued for flexibility around this issue of Days Off as “some households have elderly or infirm members with special needs who require constant attention and may find it difficult to release their domestic worker for a prescribed period every week.”²¹
- 6.15 Besides being made to feel that there is no way out other than to pay off debts, there are also cases of FDWs whose job descriptions are obvious cases of being abused and under the UN definition, constitute trafficking conditions if they have no access to seek help and justice. In one recent incident, an Indonesian domestic worker was driven to despair and pulled off the ear of the elderly lady she was working for. She was given a jail term. But in that household, the Indonesian girl had to look after three elderly folk (one of whom she had to lift and bathe by herself, and another who was suffering from dementia) and also mind two young children, while also doing the cooking and washing for the whole family.²² There are many other instances of extreme demands made on FDWs that are beyond the scope of human endurance.

Lack of adequate and systematic screening for trafficking victims

- 6.15 Prostitution is not illegal in Singapore, although public soliciting is. Licensed brothels in traditional red-light districts are staffed by mainly foreign workers (and some local), many of whom enter the country on short-term social visit visas. Those found without registration papers are subject to prosecution.
- 6.16 While the Singapore police have increased law enforcement efforts in red-light and entertainment areas²³ and have begun closing massage parlours that offer sexual services (following the highly-publicised murder of a masseuse by her ‘client’)²⁴, prostitution continues to exist quite openly. There is a clear lack in consistency of approach by the Government, which switches from a general tolerance of “consensual prostitution” to sudden and strict enforcement campaigns when media attention is focused on the problem. While AWARE recognises some of the difficulties in dealing with prostitution, the Government needs to take a more sustainable approach to governing this area.

²¹ Comments made by Senior Parliamentary Secretary for Manpower Hawazi Daipi as reported in the media; The Straits Times; March 9th, 2006

²² *Maid jailed for ripping ear off woman* by Chong Chee Kin, The Straits Times, 17 December 2005.

²³ 2005-2006 Trafficking in Persons (TIP) Report on Singapore by the United States Department of State, paragraph on ‘Protection’.

²⁴ Channel News Asia, *Man who stabbed masseuse in Ang Mo Kio salon charged with murder*, 20 June 2006; *Massage parlours will now face more stringent regulations*, 24 June 2006.

- 6.17 AWARE was surprised to see that Singapore had been upgraded to a Tier 1 classified country under the US State Department Trafficking in People report for 2005. The report states that Singapore made “clear progress in anti-trafficking law enforcement efforts” and investigated 28 cases of possible trafficking, although none led to a prosecution under trafficking laws *per se*²⁵. Eighteen people were found to be involved, and were prosecuted and convicted under other statutes. See earlier discussions in Art 6.10.
- 6.18 The US report goes on to say that Singapore provided “adequate assistance to trafficking victims”, and that police had identified a larger number of trafficking victims among foreign women detained for prostitution – a total of 83 including 48 minors²⁶. Not one of these cases produced a publicly known case of prosecution for trafficking under existing trafficking legislation.
- 6.19 To the best of AWARE’s knowledge, there is no systematic screening of foreign women detained for prostitution to verify that they had entered prostitution voluntarily. Without screening and appropriate training of police and immigration officials, many victims may be too frightened to come forward and defend themselves²⁷. Indeed, ‘willingness’ or ‘consent’ may not be properly understood, especially where victims are young, illiterate, vulnerable, gullible and fearful.
- 6.20 The case of a young Thai girl ‘rescued’ by police from a ‘brothel’ underlines the difficulties of such cases²⁸. The girl was rescued following calls to her boyfriend in Germany. She had been promised a job in a restaurant, but when she got to Singapore, she was forced to work as a prostitute for construction workers and was held in the jungle to service them. The police charged her with overstaying, claiming that she had admitted that she had not been coerced into prostitution. Her case was brought to the attention of the Attorney-General, whereupon her lawyer argued that because she was in captivity she had flouted immigration rules and overstayed. The over-staying charge was subsequently dropped. But there were no charges brought against her agent (trafficker). The case shows the difference in approach – the police clearly believed that the girl had come to Singapore for the purpose of prostitution voluntarily, irrespective of her abysmal working conditions. Yet, as her lawyer put it, “Her conduct throughout this saga has been consistent with someone desperately trying to escape an awful situation she had no intention of being in”²⁹.

²⁵ 2005-2006 TIP Report on Singapore, paragraph on ‘Prosecution’.

²⁶ 2005-2006 TIP Report on Singapore, paragraph on ‘Protection’.

²⁷ *Time to put our foot down on the sex trade* by Braema Mathi, The Straits Times, 6 May 2005.

²⁸ See report in The New Paper: *Saved by secret calls*, 31 May 2005.

²⁹ See report in The New Paper: *Not forced to be a prostitute, say police*, 31 May 2005.

- 6.21 In a more recent case, a woman from a tribal group in Thailand was forced into prostitution when she was a minor. She came to Singapore to work as a prostitute and was arrested for working as an undocumented worker and blacklisted from entering Singapore. A Singaporean man met her in a Thai brothel, married her and as they entered Singapore, she was again arrested for flouting her immigration status and sent to prison. In spite of the documentary evidence secured by Thai NGOs and supported by a UNESCO³⁰ statement, she was tried for her immigration offence and the appeals by her husband to recast the case as one who had been trafficked all her life was denied.³¹
- 6.21 Many foreign women – as willing prostitutes, as legally employed domestic workers or even as wives – are not in possession of their own passports or other documents. This form of control over them stops a genuine victim from ‘escaping’, as she then becomes an undocumented person, and Singapore, as described earlier, takes a punitive approach on such matters. She runs the risk of being a double victim – by her employer, keeper or husband, and the State³². The lack of adequate protection by the State in this aspect where she is a documented and legal worker makes her vulnerable to working under ‘forced labour’ situations in some circumstances.
- 6.22 In cases such as these involving missing passports, victims are usually detained by Singapore’s immigration authority for verification of their nationality, as in the case of a Thai sex worker who drew AWARE’s attention to her case³³. The detention of trafficking victims in a prison setting is an unacceptable consequence of Singapore identifying such persons as offenders rather than victims. This approach only makes it harder for any genuine cases to emerge, or for the women to take the risk to identify the perpetrators. There were only five such cases that surfaced at a shelter in a year.³⁴

³⁰ <http://www.uwip.org/index.php?t=art82&p=a>

³¹ <http://www.straitstimes.com/portal/site/STI/menuitem>

³² If FDWs were covered by the scope of the Employment Act, it appears that s.108 would likely apply to make it an offence for employers to retain the former’s passport, making it impossible for them to leave their service. The penalty upon conviction would then be a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 6 months or to both. Regrettably, s.2 of the Employment Act precludes FDWs from the purview of the Act.

³³ As reported to AWARE hotline by third party on 17 April 2006...see reference materials?

³⁴ Statistics from HOME.

Age of ‘majority’

- 6.23 Singapore’s response to trafficking and prostitution is currently governed by three different pieces of legislation – the Children’s and Young Persons Act³⁵, the Women’s Charter³⁶ and the Penal Code³⁷, each referring to different ages for different offences. The Government has announced some changes to the Penal Code³⁸. AWARE congratulates the State on these proposed changes with regard to plugging the loopholes on the age of consent, on definitions of sexual acts and on extra-territorial jurisdiction to rein in Singaporeans who have sex with children overseas.
- 6.24 Under the current Penal Code, the offence of rape is committed when a man has sexual intercourse with a girl under 14 years of age, whether it is with or without her consent. The Women’s Charter disapproves of sexual intercourse with a girl less than 16 years old by virtue of its Section 140: a person who has carnal connection with any girl below the age of 16 years except by way of marriage shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding 5 years, and shall also be liable to a fine not exceeding \$10,000.
- 6.25 The proposed amendments to the Penal Code will introduce a new offence that makes consensual oral sex with a girl aged between 14 and 16 a crime, attracting the same proposed penalty as vaginal or anal sex. This draws a bridge between the current Penal Code, which does not “net” the 15 and 16 year-olds, and the Women’s Charter, which does.
- 6.26 Under the current Penal Code, when a person under 14 years of age is a victim of outrage of modesty and the offender causes or attempts to cause death, hurt or wrongful restraint, or the person is a victim of fear of instant death, instant hurt or instant wrongful restraint to commit or facilitate the commission of such outrage of modesty, the offender can be punished with imprisonment for a term of not less than 3 years and not more than 10 years, and can also be caned. The proposed reforms call for tougher penalties.
- 6.27 Under the UN Convention on the Rights of a Child³⁹, children are defined as those under the age of 18. As discussed above in paragraph 6.6, the UN believes

³⁵ Act 1 of 1993, chapter 38. See Appendix 6.4.

³⁶ Ordinance 18 of 1961, chapter 353. See Appendix 6.1.

³⁷ Act 4 of 1871 (as revised in 1985), chapter 224. See Appendix 6.5.

³⁸ See Appendix 6.6 for proposed amendments to Penal Code and website www.reach.gov.sg/.

³⁹ Part 1, Article 1. See Appendix 6.7.

that children cannot give valid consent to the initial stage of trafficking. By fixing the age of majority at 18, AWARE believes that it would make it much easier to recognise and prosecute cases of trafficking involving females under 18.

- 6.28 At the same time, AWARE is concerned that fixing an age limit of 21 in relation to offences of forced prostitution and selling, letting, hiring or otherwise disposing of a person under 21 years of age for the purposes of prostitution under the Penal Code effectively removes protection from women over 21 who can equally be victims.

Sex tourism

- 6.29 Singapore sex tourists reportedly make up the largest number of sex tourists visiting the Indonesian Riau Islands⁴⁰. Many of the girls working in the sex trade on the islands are under 18; some have been duped into prostitution or are in so-called 'marriages'⁴¹.
- 6.30 AWARE welcomes the Singapore Government's decision to extend extra-territorial jurisdiction over Singapore citizens who sexually exploit minors overseas⁴². The measures to do this are part of the Penal Code Amendments that have been announced⁴³. AWARE looks forward to the Government's consultative process with all stakeholders.
- 6.31 AWARE also welcomes the Government's commitment to the Regional Education Campaign spearheaded by the Australian NGO, ChildWise Tourism, to help educate the public about child sex tourists.
- 6.32 While welcoming the focus on sex tourism with minors, AWARE is concerned that Singapore may be ignoring the wider problem of sex tourism with trafficked women. While the public may be educated to condemn such behaviour with minors and to report offenders, how is Singapore acting to condemn such behaviour with women?

⁴⁰ *Shock would-be child sex tourists into saying 'no'* by Susan Long, The Straits Times, 28 May 2005.

⁴¹ ECPAT country report on Singapore; '*Sexpat*' haunts by Arlina Arshad, The Straits Times, 19 March 2006; *Beyond Borders: Sex with Children – Implementing Extra-Territorial Legislation for Singaporeans* an AWARE position paper on sex tourism, published in September 2006; *Love, Sex and the Spaces In-between: Bintan Wives and their Singaporean Husbands* by Lenore Lyons, Conference on International Marriage, Rights and the State in Southeast and East Asia, 21-22 September 2006.

⁴² Written Answer to Parliamentary Question on the review of the Penal Code given by Mr Wong Kan Seng, 3 April 2006. See also Appendix 6.6.

⁴³ See website www.reach.gov.sg/. See Appendix 6.6.

Ratification of International Conventions

6.33 While Singapore is a signatory to many international conventions on trafficking as well as the ASEAN Declaration Against Trafficking in Persons Particularly Women and Children⁴⁴, it is disappointing to note that this commitment has not extended to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, which has already been signed by 117 countries⁴⁵ and to the Stockholm Agenda for Action Against Commercial Sexual Exploitation of Children, which has already been signed by 161 countries⁴⁶.

“The UN Protocol sets forth three purposes:

To prevent and combat trafficking in persons, paying particular attention to women and children;

To protect and assist victims of trafficking, with full respect for their human rights; and

To promote cooperation among States in order to meet these objectives.

The Protocol:

Defines “trafficking in persons”;

Offers tools for law enforcement and border control;

Strengthens the response of the judiciary;

Expands the scope of protection and support to victims and witnesses; and

Establishes prevention policies.”⁴⁷

6.34 The Stockholm Congress against Commercial Sexual Exploitation of Children⁴⁸ adopted a Declaration and Agenda for Action to “assist in protecting child rights, particularly the implementation of the Convention of the Rights of the Child...to put an end to the commercial sexual exploitation of children worldwide.”

6.35 AWARE welcomes the progress made by Singapore in addressing abuses of foreign domestic workers. They include: tougher regulations for employment

⁴⁴ Signed at the 10th ASEAN Summit in Vientiane, Laos, 29 November 2004.
<http://www.aseansec.org/16793.htm>.

⁴⁵ Status as of 30 November 2006. http://www.unodc.org/unodc/crime_cicp_signatures_trafficking.html.

⁴⁶ Status as of 30 November 2006.
http://www.ecpat.net/eng/Ecpat_inter/projects/monitoring/online_database/Countries.

⁴⁷ United Nations Office on Drugs and Crime website. “Trafficking in Persons: The New Protocol”.

⁴⁸ Declaration and Agenda for Action from the World Congress Against the Commercial Exploitation of Children, Stockholm, Sweden, 27-31 August 1996. See
<http://www.ilo.org/public/english/comp/child/standards/resolution/stockholm.htm>

agencies responsible for placing foreign domestic workers with employers; prosecution of employers found to be abusing their workers; and information campaigns to raise workers' awareness of their rights. However, AWARE remains concerned about a number of areas that affect foreign domestic workers.

- 6.36 Conditions such as compulsory six-monthly medical checks and prohibition of pregnancy or marriage to a Singaporean during their stay⁴⁹ are a denial of fundamental human rights and place foreign domestic workers in abusive labour conditions. In addition, the lack of a requirement for a day off each week and other conditions such as long working hours, can amount to involuntary servitude. These issues are discussed further in Articles 11 and 16.

RECOMMENDATIONS TO THE GOVERNMENT

Trafficking

Definition of trafficking

- 6.37 AWARE calls on Singapore to review its definition of trafficking to bring it in line with the definition in the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons. By applying this wider definition, Singapore should be able to ensure that existing laws are effective in identifying trafficking victims and prosecuting traffickers. At the same time, a proper definition of trafficking will help the Singapore authorities understand the true extent of the problem in Singapore, and this will result in a more planned and systematic approach to combating trafficking.

Lack of adequate and systematic screening for trafficking victims

- 6.38 Singapore must create a more sensitive and planned response to allegations of trafficking. The Government should set up a systematic procedure for interviewing all foreign sex workers, domestic workers and illegal immigrants held in police or immigration custody to determine if any are victims of trafficking. Police and immigration officers should undergo training to understand the complexities of trafficking and to assess situations where consent was never or is no longer present. To ensure that the Government and NGOs (particularly those working with specific nationalities and migrant workers) work together more closely, AWARE calls for greater transparency and sharing of information relating to the arrest and investigation of potential trafficking cases.
- 6.39 Trafficked persons should be treated as victims, not offenders. The provision of a dedicated shelter for trafficking victims and assurance of in-camera proceedings would encourage victims to testify against those responsible for trafficking.

⁴⁹ See Appendix 6.8, the Employment of Foreign Workers Act, Chapter 91A, Conditions of Work Permits.

Age of 'majority'

- 6.40 While recognising that different countries have different ages of majority, AWARE calls on the Singapore Government to afford further protection to 'children' between the ages of 16 and 17, by harmonising all legislation relating to trafficking of children to cover all those under 18 years of age, and by criminalising prostitution with those under 18. While welcoming the Government's long-awaited review of the Penal Code, AWARE calls on the Government to take into account the views of the various stakeholders and enact changes that will make a real difference to this area.
- 6.41 At the same time, AWARE calls on the Government to extend the protection afforded to children concerning forced prostitution and offences related to the selling, letting, hiring or otherwise disposing of a person for the purposes of prostitution to all women, irrespective of age.

Sex tourism

- 6.42 AWARE calls on the Singapore Government to enact comprehensive legislation governing the sexual exploitation of minors overseas by Singapore citizens. At the same time, AWARE calls on the Government to use the opportunity afforded by the new legislation to educate the public with regard to sex tourism with both adults and children.
- 6.43 There is a need to involve budget airlines, airlines, cruise companies, tour agencies to be part of this stakeholder community.

Ratification of International Conventions

- 6.44 AWARE together with NGOs such as Transient Workers Count Two (TWC2) and Humanitarian Organisation for Migration Economics (H.O.M.E) urges Singapore to sign the Protocol and Agenda for Action and show its commitment to tackling trafficking to the international community.
- 6.45 It is timely to consider the conditions under the Convention on Migrant Workers and their Families⁵⁰ so that Singapore can begin the process of signing and ratifying that Convention in due course.

Abusive conditions for some foreign domestic workers

- 6.45 AWARE supports the calls made by advocacy groups TWC2 and ACMI⁵¹ for the Government to include FDWs under the Employment Act, to ensure that

⁵⁰ See Appendix 6.9 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. See http://www.unhcr.ch/html/menu3/b/m_mwctoc.htm.

agreements are standardised and that there are legally binding contracts that guarantee basic rights such as rest days, standard tasks descriptors, holidays and maximum hours a day to be worked.

- 6.46 AWARE joins TWC2 in asking Singapore to withdraw the regulations prohibiting marriage to a Singaporean and removal of the terms that reduce pregnancy into acts of shame for foreign domestic workers. This whole approach to deporting pregnant FDWs can be handled with greater sensitivity, and the Government needs to invest in sexuality education courses for its migrant workers.
- 6.47 As both migrant workers and trafficking are transnational issues, it is time for the Government to take on an instrumental role to create a task force at the ASEAN level to tackle this effectively and to look for bilateral agreements when all else fails.

⁵¹ TWC2 produced a Bill called the Foreign Domestic Workers Act that was submitted to the Ministry of Manpower in 2003. This effort was a build-up and review of an original draft created by ACMI. See Appendix 6.10.

Article 7

ARTICLE 7

WOMEN IN POLITICAL AND PUBLIC LIFE

State parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure women, on equal terms with men, the right:

- (b) *To participate in the formulation of government policy and implementation thereof and to hold public office and perform all public functions at all levels of government;*

CRITICAL AREAS OF CONCERN

Representation

- 7.1 In Singapore, women currently make up 50.3% of the population¹, represent 42.1% of all economically active residents² and constitute 53.1% of university graduates³. However, in spite of their presence in the workforce and their academic qualifications, women are not represented to the same extent in Parliament, in the Judiciary or in public bodies as leaders and/or decision-makers.
- 7.2 Recent elections in Singapore⁴ brought into office 84 elected Members of Parliament (MPs), of which only 16 were women. All 16 were elected through group representation constituencies⁵. There was one more female Parliamentarian, a Non-Constituency MP who garnered the highest votes among the losers in the elections. Before Parliament dissolved for the elections (May 2006), there were 10 women elected into Parliament and another three women Nominated MPs⁶, out

¹ Figure given in General Household Survey on resident population for 2005, published in June 2006. <http://www.singstat.gov.sg/pdtsvc/pubn/ghsr1.html>.

² Figure given in the General Household Survey on economically active residents in 2005, published in June 2006. <http://www.singstat.gov.sg/keystats/annual/ghs/r1/chap3.pdf>.

³ MCYS website updated 28 August 2006 and also statistics from National Youth Council. <http://www.nyc.gov.sg/ym/Youth%20Statistics/education4.gif>. Percentage of women graduates as high as 71.5% for business degrees.

⁴ Parliament of Singapore website: <http://www.parliament.gov.sg/AboutUs/Org-MP-currentMP.htm> . Last reviewed date : 20 Sep 2006

⁵ System introduced in the 1988 General Election to ensure the representation in Parliament of members from the Malay, Indian and other minority communities. See website: <http://www.parliament.gov.sg/AboutUs/Org-MP.htm>. *Voters' Choice: Breaking the Gridlock of Race and Gender* by Eugene Tan, Straits Times, 26 May 2006

⁶ Singapore Government Directory Interactive website www.sgdi.gov.sg/, *Voters' Choice: Breaking the Gridlock of Race and Gender* by Eugene Tan, Straits Times, 26 May 2006.

- of a total of nine NMPs. The overall percentage representation for women today is 23.4%. This certainly marks a big improvement on the 16.13% in the previous Parliament, but is still far short of the 30-35% that the United Nations deems necessary as the threshold for women to make an impact on policies⁷. This level of participation becomes harder to bear when there are many well-qualified women too (See Art 7.1)
- 7.3 While the number of female MPs has increased, there has been little improvement in the number of women at the higher levels of Government. There are no female Ministers, and only two Ministers of State and one Mayor. Other Asian countries, including Japan and Malaysia, with their strong cultural and religious values, have done better than Singapore in this area of women political leadership. In fact, Singapore ranked a poor 65th out of 115 in the World Economic Forum's Gender Gap study for 2006⁸. The main reason for this poor showing for an advanced country is the lack of women representation at the political level. The global average for political representation stands at 15%; Singapore scores only 8.3%⁹.
- 7.4 At the senior civil service level, 33.6% are female but only three are Permanent Secretaries¹⁰.
- 7.5 Only 3 out of 13¹¹ (23 %) Supreme Court judges are female. At the subordinate court judges' level 5 out of 6¹² (83 %) magistrates are female, and 27 out of 61¹³ (44%) district judges are female.
- 7.6 Within statutory bodies, statistics show that 62.5% of Chief Financial Officers or Deputy Directors are women. But women make up only 16.6% of Chief Operating Officers or Deputy Chief Executive Officers (CEOs), and just 14.7% of CEOs, Managing Directors or Director Generals¹⁴.
- 7.7 Women make up a large proportion of all teachers (73%) in schools in Singapore. However, a smaller proportion of women are principals (62%) and vice-principals (66%)¹⁵. These numbers seem to suggest that male teachers advance further and

⁷ UN's 4th World Conference on Women in Beijing. <http://www.unep/geobook>.

⁸ See World Forum website: <http://www.weforum.org/en/initiatives/gcp/Gender%20Gap/index.htm>
The study measures the opportunities and resources made available to women vis a vis men in four areas – economic participation and opportunity, educational attainment, political empowerment, and health and survival.

⁹ *Philippines up there, where's Singapore?* Todayonline.com, 23 November 2006.

¹⁰ Singapore Government Directory Interactive www.sgdi.gov.sg/ updated 18 May 2006.

¹¹ <http://app.supremecourt.gov.sg/default.aspx?pgID=40>

¹² <http://www.sgdi.gov.sg/>

¹³ <http://www.sgdi.gov.sg/>

¹⁴ Singapore Government Directory Interactive www.sgdi.gov.sg/ updated 18 May 2006.

faster compared to their female counterparts. While the mechanism for career advancement is unclear to public scrutiny, sexual discrimination cannot be ruled out even as it is acknowledged that women do absorb a career-break to look after children.

- 7.8 The picture of public life is that women are well represented at lower levels but under-represented at higher levels. Singapore is proud to state that it operates a policy of meritocracy¹⁶. If this policy were administered well, one would expect to see higher numbers of women reaching higher-level jobs in public life. The State's response of women taking time out to have children and thus advancing more slowly than men in their careers cannot be the only reason for such disparities.

Gender Sensitisation

- 7.9 Even before being elected to office, women candidates face gender-biased reporting in the media, which sometimes focuses more on the candidate's hairstyle or appearance than their credentials for office¹⁷.

- 7.10 Once elected to office, female MPs have to battle hard to be heard:

“Listen to us as equals”¹⁸ – Ms Irene Ng (MP for Tampines GRC)

“Please listen to the women”¹⁹ – Dr Amy Khor (MP Hong Kah GRC)

“Last year, we were more nuanced and polite in getting our message across. But little improvement has been made. This year, to make sure we are heard, we are taking a more forceful position because we have a duty to the women we represent and they deserve to be taken seriously. It cannot be that the views we express do not have merit and are not reflected in policy changes. They acknowledge that we have different views but they remain firm in their view that a patriarchal system should remain. As long as this mindset prevails, the women MPs will continue to speak.”²⁰ – Dr Amy Khor (MP Hong Kah GRC)

¹⁵ See Appendix 7.1. Education Statistics Digest 2005. Management, Information and Research Branch Planning Division, Ministry of Education April 2005, see website: http://www.moe.gov.sg/esd/ESD%20Interactive/ESD_Resourcesteach.htm. See further discussion in Article 11, paragraph 11.5.

¹⁶ Ministry of Community Development Youth and Sports website www.mcys.gov.sg/ “Celebrating Women”.

¹⁷ *Who's that Hot Babe?* by Karen Wong, New Paper, 17 April 2006. See also *Alpha women are darn sexy* by Nicholas Fang, The Straits Times, 5 June 2006.

¹⁸ See Appendix 7.2. Remarks made in Parliament, 9 March, 2004, Hansard Volume 77.

¹⁹ See Appendix 7.2. Remarks made in Parliament, 9 March, 2004, Hansard Volume 77.

²⁰ *Women MPs tell Government: Listen to us as equals*, Today Online, 16 March 2004.

7.11 AWARE is also concerned by the lack of gender sensitisation by some male MPs. For example, in a discussion in Parliament on the use of Medisave savings to pay for preventive health checks, a female MP, Dr Lily Neo, asked the Minister about encouraging women under 50 to go for a mammogram to test for cancer²¹. He replied:

“We have to use our Medisave carefully. I sympathise entirely with women who want to do their breast screening early. I would urge them to do so. My usual reply to them is: save on one hairdo and use the money for breast screening. I have been taken to task by many of my hairdressers in Telok Blangah but I think this is still my main message.”²²

7.12 Similarly, in a discussion led by Nominated MP Ms Braema Mathiaparanan on tax relief for single working women employing a foreign domestic worker to care for an elderly parent or disabled siblings, the response was direct – as the relief was meant for married women to encourage them to get back into the workforce, then if single women wanted to benefit from the relief, “get married”²³.

7.13 Another female MP, Ms Irene Ng, raised the issue of gender-biased remarks at a meeting on Women in Politics organised by the ruling PAP in July 2005. She said women had to “watch out for the subtle undermining” which could sometimes take place even in Parliament.

“The problem is not male MPs, but our social culture, which has yet to adjust fully to the new model of a strong and independent woman. Our political culture can evolve only as fast as the social culture.”

Ms Ng added that women who championed an issue repeatedly might be referred to as “too emotional”²⁴. She later retracted these comments.

7.14 There are some gender-sensitised male MPs like Mr Charles Chong who has also raised gender equity issues. One such discussion that drew much support from some male MPs was the quota on female students admitted to medical school. In fact, Mr Chong referred to Article 10 of CEDAW and asked for confirmation if Singapore was in compliance with this Article:

²¹ See Appendix 7.3. Dr Lily Neo, 13 August 2001, Hansard Volume 73.

²² See Appendix 7.3. Minister for Health, Mr Lim Hng Kiang, 13 August 2001, Hansard Volume 75.

²³ See Appendix 7.4. Second Minister for Finance, Mr. Lim Hng Kiang, 26 November 2002, Hansard Volume 75.

²⁴ *Ribbed by men? Women MPs give as good as they get* by Lynn Lee, The Straits Times, 12 July 2005.

“Sir, could the Minister confirm that there is no discrimination, that there is complete equal opportunity, and there is no discrimination by virtue of gender in the field of education?”²⁵

Marginalisation of Women’s Issues

Women’s Desk

- 7.15 Singapore has showcased the Ministry of Community Development, Youth and Sports as the “lead agency for women matters in Singapore”²⁶. While the Ministry does excellent work on family development, women’s matters per se are marginalised to a Women’s Desk within the Family Policy Unit, with a staff of one and a half (an officer and manager)²⁷. The role is to co-ordinate on policy and programme matters through the Inter-Ministerial Committee on CEDAW, most of which are done via e-mail.²⁸
- 7.16 The 2007 Budget has allocated \$424.23 million²⁹ towards the Family Development Programme, an increase from the \$371.66 million in 2006. There is no official breakdown on figures allocated to the Women’s Desk and the programmes that it administers or has helped to administer. Overall, the total expenditure for 2007 on Community, Sports and Youth is only 3.9%³⁰ of the total Budget, of which the Family Development Programme – covering activities pertaining to marriage, parenthood, family and women, accounts for 40.5%³¹ of the sector’s operating expenditure. And it is from this Family Development Programme that the Ministry will set aside \$310 million for the Baby Bonus Scheme and Government Paid Maternity Leave Scheme to support and encourage married couples to have more children. Another \$85 million will be allocated for childcare subsidies to give parents greater access to quality child and infant care centres.³² Budget allocation on issues such as trafficking, gender mainstreaming, single women and divorcees are not clearly visible or highlighted.
- 7.17 A new scheme was introduced in Budget 2007 – the Workfare Income Supplement (WIS) Scheme to help older low wage workers increase their employability, boost their take-home pay while at the same time building up their

²⁵ Remarks made in Parliament on 25 November 2002, Hansard Volume 75.

²⁶ MCYS website, www.mcys.gov.sg/ section on “Celebrating Women”, see earlier footnote 14.

²⁷ MCYS website data, as of 3 July 2006. See directory under website www.sgdi.gov.sg.

²⁸ See Article 1-4 for further discussion on role of IMC

²⁹ http://www.mof.gov.sg/budget_2007/revenue_expenditure/attachment/MCYS_EE2007.pdf. See Appendix 7.6.

³⁰ http://www.mof.gov.sg/budget_2007/revenue_expenditure/attachment/Expenditure_Estimates.pdf [4th item under “Social Development, p11 of Budget/p7 of 8 of PDF document.]

³¹ http://www.mof.gov.sg/budget_2007/revenue_expenditure/attachment/MCYS_EE2007.pdf

³² http://www.mof.gov.sg/budget_2007/expenditure_overview/social_dev.html

CPF for retirement, housing and healthcare needs.³³ AWARE applauds this initiative and much remains to be done in its implementation, as it is early days yet. But the caution needs to be there in that this scheme caters to working women especially those who manage work and caring for the family on their own with no option to home help. This has also surfaced in Parliament with MPs asking that the needs of the working family woman be met with such schemes.³⁴ And again it is not clear what the role of the Inter-Ministerial Committee on CEDAW or the Women's Desk has in devising this new scheme and to what extent assurance can be made that the needs of the middle-aged and older working woman will be looked into through this scheme.

7.18 A point has to be made of how in some of Singapore's neighbouring countries, women's affairs have been given more prominence, with the budget and staff allocation focusing on improving the status and development of women. In Malaysia, for example, there is a Ministry for Women, Family and Community Development and it has two distinct programmes – one is family development and the other is a women's development programme, which is targeted at improving women's status. The women's programme has its own budget (RM 37.8 million in 2005) to implement programmes in training, legal literacy and women against violence campaigns, as well as to set up temporary shelters for abused women and children³⁵.

7.18 Australia too has a dedicated women's development unit. It has set up the Women's Development Grants Program to offer grants to individuals and small women's groups to implement projects and address community needs, as well as to enhance women's capacity to access equal opportunities³⁶. In Singapore as the data very often is not gender disaggregated it is impossible to know how exactly women or men are being helped.

Inadequate training in women's issues

7.19 The Family Resource Training Centre was set up by the Singapore Association of Social Workers to lead in the professional development of family services. The Centre does a lot of good work on mainstream family issues, including family life education and work-family life balance, but lacks more specific courses dealing with women-related issues. A review of courses on offer in 2006³⁷ reveals no women-specific courses, the focus being mainly on youth, the elderly, parenting

³³ http://www.mof.gov.sg/budget_2007/expenditure_overview/social_dev.html

³⁴ See in Art 11.10 for an extended discussion on this scheme

³⁵ See Appendix 7.7. The Office of the Prime Minister of Malaysia (online), 2005 Budget Speech, http://www.pmo.gov.my/WebNotesApp/PMMain.nsf/hv_PMKiniSemasaNew/962E479E589E396B48256F0C0001BD31.

³⁶ See Appendix 7.8. New South Wales Government website <http://www.women.nsw.gov.au>.

³⁷ See Appendix 7.9. <http://www.sasw.org.sg/public/professionaldevt.htm#SASWLOGO>.

and marriage. In addition, the Association accredits not all of the courses on offer for Continuing Professional Education. AWARE would argue that the Centre needs to develop a range of courses to train more practitioners in specific women issues as well as on gender mainstreaming approaches. Such courses should be properly accredited to ensure that those trained have the professional recognition and competences to provide counseling and other services in this area.

- 7.20 The Social Services Training Institute (SSTI) under the National Council of Social Services conducts capacity building for staff and volunteers. Only one of the courses currently listed focuses on women – ‘Management of Family Violence – Group Work for Female Victims of Violence’³⁸.
- 7.21 Likewise, the Singapore Human Resources Institute (SHRI) lists no women-specific courses, workshops or seminars on its website³⁹. In its corporate profile, SHRI describes itself as “the only professional HR authority in Singapore, and its views are respected by the governmental and private organisations”⁴⁰. Given such exclusivity, it is important then for the Institute to embrace comprehensive courses, workshops and seminars focusing on issues such as gender mainstreaming in the workplace.

RECOMMENDATIONS

Representation

- 7.22 The Singapore Government needs to continue to ensure that more women enter political life by actively addressing the social mores and prejudices that prevent women from participating in politics, and educating the public about the important roles of women in politics. It is imperative that the notion of men as heads of households be debunked now and that the State opts for a joint-partnership model of addressing households and reviewing policies from this perspective.
- 7.23 AWARE calls on the ruling People’s Action Party and opposition parties to field female candidates in single-member constituencies, not just group representation constituencies⁴¹. This move should signal to the electorate that female candidates

³⁸ See Appendix 7.10. <http://www.ssti.org.sg/HTML/TreeCatalogue.asp?CourseCatId=38>.

³⁹ See Appendix 7.11. <http://www.shri.org.sg/workshops/>.

⁴⁰ See Appendix 7.12. <http://www.shri.org.sg/corporate/>.

⁴¹ See discussion in *Voters’ choice: Breaking the gridlock of race and gender* by Eugene Tan, Assistant Professor of Law at the Singapore Management University, The Straits Times, 26 May 2006.

stand equally alongside their male counterparts and re-affirm the Government's commitment to meritocracy.

- 7.24 The Government should take steps to analyse why more women are not reaching the top jobs in public life despite the numbers of women present in lower-ranking positions. AWARE would like to suggest that a policy unit be set up to actively promote equal opportunities for women's career advancement and establish policies that discourage both subtle and obvious discrimination against women or men. The mechanisms of career advancement for both sexes should be made clear and available to public scrutiny in order to justify non-discriminatory practices among employers and human resource practitioners.

Gender sensitisation

- 7.25 AWARE urges the Government to take pro-active steps to remove gender-bias from the political arena. MPs that make gender-related comments to undermine female colleagues should be reprimanded.
- 7.26 The proposed Women's Register of Successful Women with High Potential⁴² should be publicised widely, not just among women but among men too. While the State has supported the setting up of a Women's Register with Singapore Council of Women's Organisations more needs to be done to get talented women into political leadership. Funding this very important venture which is being carried out at a national level is important and the Government could support this even more and not just rely on the National Volunteer and Philanthropy Centre, which again runs the risk of giving the impression that women's issues are related to volunteerism and the charity dollar.

Marginalisation of Women's Issues

- 7.27 AWARE urges the Singapore Government to set up a fully functional women's policy unit, with the budget, staffing and political will to develop policies and programmes to improve the status and development of women in Singapore. This can also be in the form of units within each Ministry, and an important mandate has to be that of making public gender-disaggregated data.
- 7.28 This Women's Policy Unit needs to evolve eventually into a Gender Equality Policy Unit.
- 7.29 AWARE urges the Government to promote more specific women's issues training for social workers (and other professionals in the field) and human resource

⁴² Proposed by a consultative group of women's groups, led by Singapore Council of Women's Organisations and supported by the Ministry of Community Development, Youth and Sport to increase participation of women in leadership positions in the community/people and business sectors. Press release 24 September 2005.

professionals through the Family Resource Training Centre and SHRI. Such courses should be properly accredited and recognised as providing the necessary competences for the individuals trained to work effectively.

Article 8

ARTICLE 8

WOMEN IN INTERNATIONAL POSITIONS

State parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organisations.

CRITICAL AREAS OF CONCERN

- 8.1 The representation of women in Singapore's foreign service reflects their representation in public life. Women are well represented in the lower ranks of officers (Category 2)¹ but poorly represented at the highest level of Ambassador or High Commissioner.
- 8.2 Out of a total of 49 ambassadors, only three are women, or 6.12%². The percentage is 11.11% for female high commissioners (two out of 18)³.

RECOMMENDATIONS TO GOVERNMENT

- 8.3 AWARE calls on Singapore to review the lack of advancement of women within the Foreign Service and to take concrete measures to remedy the situation.
- 8.4 Global and international relations have become extremely important. These areas are developing both in research and in the academic curriculum offered at top universities abroad, as national security issues and international relations are increasingly recognised as being embedded in gendered perspectives of dominance, subordination, conflicts, peace and violence. AWARE calls on the Government to be ahead of the curve in this region and offer such curricula at its universities to equip its people to be global players.⁴

¹ Singapore's Third Periodic Report to CEDAW, para 8.10

² See Appendix 8.1. Singapore Government Directory Interactive updated on 7 November 2006. www.sgdi.gov.sg/.

³ See Appendix 8.2. Singapore Government Directory Interactive updated on 31 May 2006. www.sgdi.gov.sg/.

⁴ Tickner, Ann J; *Gender in International Relations: Feminist Perspectives on Achieving Global Security*; Columbia University Press, New York; http://en.wikipedia.org/wiki/Critical_international_relations_theory. In International Relations, some feminists argued that the discipline is inherently masculine in nature, focusing on roles of specific actors in both politics and in conflict i.e. diplomats and warriors. Instead, they argue for a more inclusive IR that considers the role of women in both politics and war — by *gendering war*. Influential in the study of feminist international relations has been the work of Dr Cynthia Enloe, who in her books has systematically re-evaluated the ways in which IR is typically gendered.

Article 9

ARTICLE 9

NATIONALITY

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.

2. State Parties shall grant women equal rights with men with respect to the nationality of their children.

Singapore's Reservation

“Singapore is geographically one of the smallest independent countries in the world and one of the most densely populated. The Republic of Singapore accordingly reserves the right to apply such laws and conditions governing the entry into, stay in, employment of and departure from its territory of those who do not have the right under the laws of Singapore to enter and remain indefinitely in Singapore and to the conferment, acquisition and loss of citizenship of women who have acquired such citizenship by marriage and of children born outside Singapore.”

CRITICAL AREAS OF CONCERN

Acquisition and loss of citizenship

9.1 According to the Singapore Constitution, the supreme law in Singapore¹, women citizens – including those who acquired citizenship by registration through marriage to a Singaporean citizen – are not automatically or consequentially deprived of their citizenship in the event that: (a) their spouse renounces or is deprived of citizenship pursuant to Articles 128 and 129 of the Constitution; or (b) they are divorced from their spouse (See Appendix 9.1).

9.2 Article 130² of the Constitution (regrettably) empowers the Government to deprive of citizenship any child under 21 years who has been registered as a citizen of Singapore where the child's parent or wife or husband of the parent has denounced his citizenship or been deprived of it under Articles 129(2)(a) or 134(1)(a)³. This power does not, however, extend to the wife/spouse.

¹ Constitution of the Republic of Singapore, 1999 Revised Edition, Article 4. See Appendix 9.1.

² See Appendix 9.1.

³ See Appendix 9.1.

Accordingly, AWARE sees no justification for the reservation to CEDAW Article 9(1).

- 9.3 In addition, several Articles relating to citizenship refer to “women” instead of “person” (see below, paragraphs 9.11-9.15). They include Article 123(2) on citizenship by registration, Article 128(3) on renunciation of citizenship, Article 129(6) on deprivation of citizenship and Article 134(1) on deprivation of citizenship on acquisition of foreign citizenship. AWARE sees no reason to maintain these references to women that perpetuate the view that women are lesser citizens than men.

Citizenship through descent

- 9.4 Prior to 15 May 2004, citizenship by descent could be granted only to a child born overseas of a Singaporean father, provided the child’s birth particulars were registered at the overseas mission within one year of birth. Children born overseas to Singaporean women did not have such an inalienable right and had to acquire citizenship by registration. The Articles in the Constitution on the granting of citizenship had remained unchanged from the 1960s until 2004.
- 9.5 These policies perpetuated the archaic perception that Singaporean women are lesser citizens than their male counterparts, since even their children are discriminated against. As a growing number of Singapore women went abroad to work because of the economic pressures of globalisation, the consequences of this discrimination had become more acute. An illegitimate child born overseas to a Singaporean mother and of an unknown or stateless father was potentially stateless.
- 9.6 On 19 April 2004, Parliament passed the Constitution Amendment Bill. The current position is that the granting of citizenship by descent will be gender-neutral for children born overseas on or after 14 May 2004⁴. These changes, effective from 15 May 2004, however did not go far enough, as they are not retrospective in effect as children born overseas before 14 May 2004 are not subject to gender-neutral laws.

AWARE commends the Government for the long-awaited amendments to its citizenship laws. With this amendment to the Constitution, there is no justification for maintaining the Reservation to Article 9(2), as the Government has effectively

⁴ Constitution of Singapore, Articles 122(2) and (3). Singapore citizens (whether by birth or registration or descent) will be able to pass on citizenship by descent to their foreign-born child (born after 15 May 2004) PROVIDED they fulfil certain conditions: birth is registered within one year at the Registry of Citizens or diplomatic/consular mission, etc; the child does not acquire citizenship in the country in which he was born; residency conditions; the parent has stayed in Singapore for at least five years before the birth of the child or at least two out of the five years immediately before the birth of the child.

⁶ See previous Singapore Government rationale for the Reservation made by Mrs. Yu-Fu Yee Shoon at the 25th Session of CEDAW, 522nd Meeting, in July 2001.

passed gender-neutral legislation on the transmission of nationality to children born overseas⁶. It should be withdrawn. It is unfortunate that the gender-neutral legislation is not retrospective in effect;
Citizenship and Marriage

- 9.7 AWARE is concerned about the prolonged and tedious process of acquiring citizenship when it comes to foreign women⁷ who are married to Singapore citizens. Many of the women are from developing countries and are married to lower educated and/or less skilled Singapore men. They depend on their husbands who sponsor their application for citizenship. This process is long and often the women are left without access to job opportunities or face threats from their husbands if the marriage is not working out well. This is also the most challenging problem that MPs face at their weekly Meet-the-People sessions.

RECOMMENDATIONS TO THE GOVERNMENT

Acquisition and loss of citizenship

- 9.8 AWARE urges the Government to withdraw the Reservation to CEDAW Article 9.
- 9.9 AWARE proposes further amendments to the Constitution in pursuit of gender-neutral provisions on citizenship⁸ as follows:
- 9.10 Article 121(2): Remove (a) and (b), or at the very least replace the reference to “father” with “either parent”:

Article 121(2): Citizenship by birth

A person shall not be a citizen of Singapore by virtue of clause (1) if at the time of his/her birth –

*His/her father (**either parent**), not being a citizen of Singapore, possessed such immunity from suit and legal process as is accorded to an envoy of a sovereign power accredited to the President;*

*His/her father (**either parent**) was an enemy alien and the birth occurred in a place then under the occupation of the enemy; or neither of his/her parents was a citizen of Singapore.*

- 9.11 Article 123(2): Replace “woman” with “person”:

Article 123(2): Citizenship by registration

⁷ See Appendix 5.5 for an extended discussion

⁸ These proposals are based on suggestions made by the Committee on Discriminatory Laws on the Basis of Sex.

*Subject to the provisions of this Constitution, any woman (**person**) who is married to a citizen of Singapore may, on making application therefore in the prescribed manner, be registered as citizen of Singapore if he/she satisfies the Government –*

- (a) that he/she has resided continuously in Singapore for a period of not less than 2 years immediately preceding the date of the application;*
- (b) that he/she intends to reside permanently in Singapore; and*
- (c) that he/she is of good character.*

9.12 Article 128(3): Replace “woman” by “person”

Article 128 (3): Renunciation of citizenship

*This Article applies to a woman (**person**) under the age of 21 years who has been married as it applies to a person of or over that age.*

9.13 Article 129(6): Replace “woman” with “person”

Article 129 (6): Deprivation of Citizenship

*The Government may, by order, deprive of his/her citizenship any woman (**person**) who is a citizen of Singapore by registration under Art 123(2) if the Government is satisfied that the marriage by virtue of which he/she was registered has been dissolved, otherwise than by death, within the period of 2 years beginning with the date of the marriage.*

9.14 Article 134(1): Replace “woman” with “person”

Article 134(1): Deprivation of citizenship on acquisition of foreign citizenship

The Government may, by order, deprive a citizen of Singapore of his/her citizenship if the Government is satisfied that –

He/she has, while of or over the age of 18 years, at any time after 6 April 1960 acquired by registration, naturalization or other voluntary and formal act (other than marriage) the citizenship of any country outside Singapore or having so acquired such citizenship before the age of 18 years continues to retain it after that age; or

*the citizen being a woman (**person**) who is a citizen of Singapore by registration under Article 123(2), has acquired the citizenship of any country outside Singapore by virtue of his/her marriage to a person who is not a citizen of Singapore.*

Citizenship through descent

9.15 AWARE urges the Government to withdraw the Reservation to Article 9. At the very least, the Government should remove the underlined text to substantially qualify the Reservation.

"Singapore is geographically one of the smallest independent countries in the world and one of the most densely populated. The Republic of Singapore accordingly reserves the right to apply such laws and conditions governing the entry into, stay in, employment of and departure from its territory of those who do not have the right under the laws of Singapore to enter and remain indefinitely in Singapore and to the conferment, acquisition of and loss of citizenship of women who have acquired such citizenship by marriage and of children born outside Singapore."

Citizenship and Marriage

- 9.16 AWARE urges the Government to offer citizenship to women who marry Singapore citizens in a shorter time and to make the process more transparent. It is also important that all such couples enter a skills enhancement course so that opportunities to understand the Singapore culture and pick up job-related skills are available.

Article 10

ARTICLE 10

EDUCATION

State Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

- (c) *The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;*
- (h) *Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.*

CRITICAL AREAS OF CONCERN

Medical school admission

10.1 AWARE appreciates the lifting of the one-third intake quota for female medical students in 2003¹ as a step in the right direction towards equality in education opportunities among men and women in Singapore. AWARE would like to draw attention to the rationale given for imposing this quota system that began in 1979. The stated reason then was that “more female doctors (16% to 19%) left the workforce prematurely or switched to part-time work, compared to their male counterparts (5% to 8%).”² By 2002, the attrition rates had dropped to 14% among females, compared to 9% among males³; the finding prompted the subsequent lifting of the quota in 2003 aided by findings of a survey conducted by the Association of Women Doctors (Singapore)⁴, that the attrition rate between male and female doctors was even narrower – at a mere 1% difference.

10.2 AWARE challenges the premise for the imposition of this quota in the first place, based on such rationale that did not examine deeper the reasons for the attrition and the challenge female doctors faced in handling their work and their family

¹ Cited in paragraphs 10.5-10.6 of the Singapore Government’s Third Periodic Report to CEDAW 2004.

² Singapore Government’s Third Periodic Report to CEDAW 2004, paragraph 10.5.

³ “Changes to the Medical Registration Act Schedule”. Ministry of Health (Singapore) Press Release 5 December 2002. <http://www.moh.gov.sg/corp/about/newsroom/pressreleases/details.do?id=10092866>.

⁴ Toh HC 2004. “Medicine Women—Pride and Prejudice”. SMA News Vol 36: 15-16. http://www.sma.org.sg/sma_news/3608/commentary.pdf#search=%22singapore%20association%20women%20doctors%20survey%20attrition%20rate%20%22.

life. While the lifting of the quota is a much welcomed initiative, AWARE would like to say that we need to draw lessons from this incident on policy formulation based on what seems to be statistical evidence and not enough on the root causes behind the statistics. For more than 20 years many well-qualified females were denied admission to medical school in Singapore and faced the options of studying medicine overseas at substantial personal costs or switched dreams as a result of these discriminatory barriers posed by the quota system. A gender-mainstreamed approach can prevent such discriminatory policies.⁵

- 10.3 Education is not compulsory for children with special needs even though Singapore has become a signatory of the Convention on the Rights of the Child (1995). Many calls have been made by various groups, the media and in Parliament for compulsory education that had gone into effect in 2003, to be extended to include all children with disabilities. In this manner, the girl-child with disabilities will also be assured of an education and a certain level of independence and well-being for her future. AWARE acknowledges the recent efforts to buttress support for the Special Education Schools, but the fact remains that parents, especially those in the lower-income bracket, need a holistic care management system to help them get their disabled child into school.⁶
- 10.4 While the Government is progressive in providing equal opportunities to males and females in education, in other areas such as sensitivity to gender stereotyping in schools and needs of children with special needs and the girl-child in that still leave much room for improvement.

Gender stereotyping in textbooks

- 10.5 Despite attempts by the Ministry of Education (MOE) to ensure that approved textbooks and other educational materials do not stereotype the position of women⁷, a survey conducted for this Report of MOE's list of approved English textbooks for Kindergarten to Secondary School levels showed that the sexes took on stereotypical roles in the textbooks⁸. The common roles portrayed by women were cooks, bakers, hawkers and teachers. In contrast, the common roles portrayed by men were sweepers, cleaners and explorers. The potential impact of this gender stereotyping in children's textbooks on the mindset of Singaporeans is

⁵ PA Tambyah, 2005. *Selection of Medical Students in Singapore: A Historical Perspective*. Annals Academy of Medicine Vol 34: 147C-151C.

⁶ See Appendix 10.1, a report called 'A Case for the Inclusion of Children with Special Needs in Compulsory Education' by the Joint Committee for Compulsory Education for All, Singapore. There is a renewed call with regards to this led by new MP Ms Denise Phua for a more holistic approach. Details of the position paper are not available at point of submission of this report to assess if a case was made for Compulsory Education to be extended to all children.

⁷ Referred to in paragraph 5.7 of the Singapore Government's Third Periodic Report to CEDAW.

⁸ See the presence and absence chart in the table in Appendix 10.2.

significant as they are read by impressionable young children who form a big audience.

Sexuality Education

- 10.6 Paragraph 5.10 of the Government's Third Periodic Report to CEDAW describes a well-received play on dating violence entitled "Hurt" that was commissioned in February 2003 by the Ministry of Community Development, Youth and Sports. The play was staged for 27,000 secondary students to educate them on healthy dating relationships. Though this play has received favourable responses based on the enrolment for secondary schools of 206,426 in 2003⁹, AWARE estimates that the proportion of students who had watched the play is at a low 13.1%. This suggests that the play would have made minimal inroads and had a minimal impact on the general secondary student population. This play and others like it are all useful tools – and much needed - in sexuality education. There is an urgent need to increase the space to showcase such play forms and increase the resources and funds to make a real impact on a wider audience especially when the subject matter is a challenging one such as sexuality education.
- 10.7 Sexuality education is increasingly important as the young can easily access the Internet or fall into risk-behaviour in the light of sexual predation by adults. This issue was discussed in 2005 by the Senior Minister of State (Law and Home Affairs) and Chairman of the Inter-Ministry Committee on Youth Crime (IMYC), Associate Professor Ho Peng Kee¹⁰, who cited the "vulnerability of children and young female [Internet] users who were especially at risk of exploitation through the Internet" as "an area of concern". He said that "apart from the date rapes resulting from casual chat room friendships, the Internet was a hot platform where male sexual predators prowled the Net for local and international sexual services". An article in the Straits Times newspaper in 2005 highlighted the ease with which an undercover reporter, posing as a 15-year old virgin girl, received several offers of sex from men in an Internet chat room¹¹. Another similar case was highlighted in the Straits Times newspaper in 2007, which yielded similar results for the undercover reporter.¹²
- 10.8 There is also a steep rise in the number of sexually transmitted infections (STI) among the young. The latest figures show that teens aged between 10 and 19

⁹ MOE Education Factsheet 2005. Ministry of Education 2004. <http://www.moe.gov.sg/esd>.

¹⁰ Senior Minister of State (Law and Home Affairs) and Chairman of the Inter-Ministry Committee on Youth Crime (IMYC) Associate Professor Ho Peng Kee's speech at the Youth.Net: Developing Cyber Wellness in Conjunction with Asean + 3 Seminar on Urban Youth Work III at Orchard Hotel, 26 July 2005.

¹¹ The Straits Times Interactive, *10 minutes in net chat room...and I got a sex offer* by Vivi Zainol, 28 April 2005.

¹² *You're 13? What's Your Bust Size?* by Cheryl Tan, The Straits Times newspaper, 6 May 2007

comprise a growing proportion of all STI patients: 3.8 per cent in 2001 and 6.1 per cent last year¹³. These figures, the teenage abortions and the rise in HIV cases among the young all point to an inept sexuality education package that has remained too focused on the Abstinence message at the expense of Safe Sex. Issues of self-esteem or negotiation skills are also not facilitated in depth. Sexuality education is not given a holistic approach. Surveys by non-governmental organisations such as Action for Aids also show that many among the young still believe that they will not contract HIV, do not know how to use condoms, or behave as bisexuals as they deal with issues of gender identity crises, as homosexual acts are still criminal in Singapore. This disadvantages young girls who may not acquire enough knowledge on safe sex matters, are conditioned to be reticent on such matters, and will not even fathom that their partners may also be sleeping with men and women at the same time.

Gender sensitisation among teachers

10.9 AWARE is not aware of any formal gender sensitisation programmes in the National Institute of Education's teacher training courses. As teachers are important role models to their students, and are instrumental in shaping the minds of these children, AWARE feels that their attitudes towards gender roles could be imprinted onto their students. Hence, it is very important that there be a formal programme to systematically educate teachers in the importance of gender sensitisation during their interactions with their students.

RECOMMENDATIONS TO THE GOVERNMENT

Medical school admission

10.10 AWARE urges the Government to actively monitor the enforcement of legislation on the equal opportunity of females to study medicine in Singapore.

Equal opportunities for the disabled girl-child

10.11 AWARE recommends that the Government looks into making education compulsory for all children, so that disabled children will be registered and will also gain access to support and education. This will mean cutting back on the lead time for children waiting for a place at these Special Schools as well as mainstreaming the disabled girl-child.

Gender stereotyping in textbooks

¹³ *More teens getting Aids, other sex diseases*, by Theresa Tan and Lee Hui Chieh, The Straits Times, 23 September, 2006; *Safe sex? But Singapore is so clean*, by Dominique Mosbergen, The New Paper, 31 August 2006.

10.12 AWARE urges the Government to accelerate and revise the school textbook reviewing process in order to remove gender stereotyping of roles. The Government should establish a ‘watchdog’ agency in the Ministry of Education to focus on gender-sensitisation processes within the classroom and in the curriculum.

Sexuality education

10.13 The Government should use resources or fund interactive programmes such as the play “Hurt” to a wider student audience and also use multi-media approaches using television or radio media to complement ongoing sexuality education programmes, with a clearer effort targeted at younger children.

10.14 AWARE recommends that the Government monitor and review sexual activity in students, particularly the abuse of the Internet and chat rooms for Internet sex.

Gender sensitisation among teachers

10.15 The Government should introduce a formal programme to the National Institute of Education’s teacher training courses to systematically educate teachers in the importance of gender sensitisation during their interaction with students.

Article 11

ARTICLE 11

EMPLOYMENT

1. *States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:*
 - a) *The right to work as an inalienable right of all human beings;*
 - b) *The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;*
 - c) *The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;*
 - d) *The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work*
 - e) *The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;*
 - f) *The right to protection of health and to safety in working conditions, including safeguarding of the function of reproduction.*

2. *In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:*
 - a) *To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;*
 - b) *To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;*
 - c) *To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;*
 - d) *To provide special protection to women in pregnancy in types of work proved to be harmful to them.*

CRITICAL AREAS OF CONCERN

Reservations

The reasons given by the State in its Initial Report to CEDAW and has been maintained is unacceptable in that they are blanket reservations and that on both accounts improvements can be made to withdraw the reservations. This has been discussed in Article 1-4 and in this Article there are detailed discussions. In a nutshell the reservations based on limitations of the Employment Act can be amended to be inclusive of those left out under its protections and the other based on women's safety in the workplace can also be enhanced with more measures to have safe working environments .

Gender imbalance in the labour force

11.1 The labour participation rate of females remains well below the participation rate of males, with 78.2% of males and only 56.6% of females participating in the workforce. The participation rate among women remained more or less constant between the years 2001 and 2004 (53 to 54%), with a rise of only 1.1% in 2005 to 56.5%¹. Other countries such as Sweden and the United States show a much higher rate – 77.5% and 68.6% respectively, while Asian neighbours also perform better (61.3% in Japan and 60.7% in Hong Kong)².

11.2 With regards to occupational status, the majority of employers and/or self-employed tend to be males, while the majority of unpaid family workers tend to be females³. Females make up less than a quarter of total employers and three-quarters of unpaid family workers⁴. According to the Singapore Department of Statistics, unpaid family workers are those who assist in the family business, trade or enterprise without receiving any regular wage or salary⁵. Being an unpaid

¹ See Appendix 11.1.

² The statistics used by this Report are sourced from the Singapore Government's General Household Survey 2005. However, to provide a picture that is as up to date as possible, the comparative figures used for this paragraph come from Table 3 of the Ministry of Manpower's report on Employment Rate in Singapore, released in October 2006 http://www.mom.gov.sg/publish/etc/medialib/mom_library/mrsd/ms.Par.12156.File.tmp/mrsd_employment%20rate%20in%20singapore.pdf. The comparative figure for 25-64 year-old females in Singapore is 59.4%. *How Singapore Compares – Employment rate of population aged 25 to 64 (2005)* – table in The Straits Times, 6 October 2006.

³ See Appendix 11.2. Singapore Department of Statistics, General Household Survey, Economic Characteristics by Working Persons, 2005.

⁴ See Appendix 11.2. Singapore Department of Statistics, General Household Survey, Economic Characteristics by Working Persons, 2005.

⁵ Singapore Department of Statistics, 2005. Glossary of Terms and Definitions: <http://www.singstat.gov.sg/pdtsvc/pubn/hesglos.pdf>

- family worker can often limit a person's opportunities to engage in business outside the home, gain an independent income, or enter and progress within a career.
- 11.3 The number of women in the workforce peaks at 86.6% and calls on the Government to ensure that more employers follow this lead and provide the necessary training and flexible work options to encourage women to remain working.
- 11.4 There are still very clearly-marked male- and female-dominated industries and occupations. Females occupy only 42.5% of positions in the information and communication industry, 37.9% in the manufacturing industry, 22.4% in the transport and storage industry and 17.6% in the construction industry⁷. Gender-stereotypical occupations (see discussion in Article 5) are also evident. For example, women still occupy the majority of clerical positions, making up 76% of all clerical workers. At the same time, they occupy only 23.5% of positions as plant, machine operators and assemblers, and 27.5% of senior officials and manager positions⁷. This trend is still prevalent despite more women having better qualifications than men. Women still make up a large proportion of teachers in schools while school leadership positions are mainly male-dominated (see discussion in Article 7.7). It clearly shows that a disproportionate number of males are occupying higher ranking should facilitate her transition into the company, with training and more flexibility."⁹ AWARE acknowledges the efforts of the NTUC and organizations such as Yayasan Mendaki¹⁰ in providing training courses in new skills to help older women return to the workforce and calls on the Government to ensure that more employers follow this lead and provide the necessary training and flexible work options to encourage women to remain working.
- 11.4 There are still very clearly-marked male- and female-dominated industries and occupations. Females occupy only 42.5% of positions in the information and

⁶ See Appendix 11.3. Singapore Department of Statistics, General Household Survey 2005.

⁷ *Don't let them drop out; higher employment rate masks problems women face in staying on the job.* Today. 30 April 2007. *S'pore's workforce: Beefing it up with women.* The Straits Times. 4 May 2007.

⁷ General Household Survey 2005, Table 84

⁹ Mr. Yeo Chun Fing, Deputy Secretary of the Amalgamated Union of Public Employees, quoted in *Don't let them drop out; higher employment rate masks problems women face in staying on the job.* Today. 30 April 2007.

¹⁰ A self help group whose training arm Social Enterprise Network Singapore (SENSE) runs a series of training programmes to motivate unemployed Malay/Muslims to join the workforce. Three out of the five enterprises are targeted at women. The women attend courses conducted by Mendaki's partner organizations and are then offered work at the enterprises. *Jobless women find hope in Sense.* The Straits Times. 5 May 2007.

communication industry, 37.9% in the manufacturing industry, 22.4% in the transport and storage industry and 17.6% in the construction industry¹¹. Gender-stereotypical occupations (see discussion in Article 5) are also evident. For example, women still occupy the majority of clerical positions, making up 76% of all clerical workers. At the same time, they occupy only 23.5% of positions as plant, machine operators and assemblers, and 27.5% of senior officials and manager positions¹². This trend is still prevalent despite more women having better qualifications than men.

- 11.5 Women still make up a large proportion of teachers in schools while school leadership positions are mainly male-dominated (see discussion in Article 7.7). It clearly shows that a disproportionate number of males are occupying higher ranking positions. AWARE is concerned about the recruitment and appraisal processes in human resource management and the level of gender sensitivity within human resource departments. Some stories have been told to AWARE and two are shared in this Report.¹³ It is also disheartening to have women in the workforce feeling that they need to limit their careers to care for the home as their men are the heads of the household.

Work-Life Arrangements

- 11.6 AWARE recognises and appreciates the Family Life Ambassador programme advocated by the Ministry of Community Development, Youth and Sports, which is aimed at creating family-friendly policies in the workplace and community¹⁴. The Ministry has also embarked on educating employers, together with the Ministry of Manpower through its Work-Life Works (WoW!) Fund¹⁵ to develop work-life strategies at the workplace, and encourage flexible work arrangements. Under the scheme the government co-funds the costs incurred for approved

¹¹ See Appendix 11.4.

¹² See Appendix 11.5.

¹³ At the point of recruiting a new staff into the government service, a female human resource officer had asked the recruit how she would cope given that she was a mother of three children. The same question was not posed to an earlier candidate – a father of three children. In another incident, during the second interview, the CEO of a company asked a female candidate about the reasons for her divorce, citing grounds to assess if she was a quitter. These anecdotes came to AWARE through phone-calls made to the then-President of AWARE, Ms Braema Mathi, after an interview she gave to the newspapers on sensitization courses for human resource personnel.

¹⁴ See Appendix 11.6. Ministry of Community Development, Youth and Sports [Online]. Family Life Ambassador Program, www.mcys.gov.sg/MCDSFiles/CorpBook/html/familylifeambassador.htm.

¹⁵ Ministry of Manpower, Work-Life Works (WoW!) Fund. http://www.mom.gov.sg/publish/momportal/en/communities/workplace_standards/work-life_harmony/WoW_Fund.html.

projects, up to a maximum of \$30,000 per project per organization. However, costs incurred under recurrent programs such as subsidizing family leave are expressly listed under “Items Typically Not Funded”¹⁶. Given the high initial costs and the general inertia of companies in introducing such strategies at work, it is submitted that the entire fund’s value of SGD\$10 million – limited to an outdraw of \$30,000 per project per company - is rather low and might just prove ineffective in stimulating actual change in companies’ and organizations’ practices.

- 11.7 AWARE believes that there are currently no programmes that focus on flexibility at the workplace from a perspective of gender equity. The Government has invested in studying the systems of various countries and this was discussed in Parliament during the Budget debates in 2004.¹⁷ The flexible arrangements and approach to work-life balance in these countries have wonderful lessons that AWARE feels the Government is not tapping into sufficiently. A Ministry of Manpower survey in 2002 showed that the number of companies that offered home-working or teleworking was still negligible in Singapore inspite of being a country that has one of the world’s highest penetration rates in being ‘wired’. Another survey released by the Ministry of Manpower in December 2006 showed that there was a 5% increase in the number of private companies that were giving paid family care leave¹⁸. Nevertheless, only 43 per cent of these companies gave paternity leave which is currently not compulsory. AWARE is concerned that the changes to alternative work models will not come about until there is a mind-set change on seeing work-life balance as a shared responsibility regardless of gender, and until fathers become advocates at the policy level. AWARE acknowledges the contributions made by organisations such as the Centre for Fathering and the newly-formed National Council on the Family, which are encouraging men to come on board to take up dual responsibilities at home and at work.

Unemployment among women

- 11.8 The gap between unemployed males and females (males 3.9%, females 4.5%) increased in 2005 from that in previous years. While the male unemployment rate declined steadily from 2003 to 2005, the female unemployment rate actually

¹⁶ http://www.mom.gov.sg/publish/momportal/en/communities/workplace_standards/work-life_harmony/WoW_Fund.html

¹⁷ Supporting Parenthood documents; Committee of Supply, Annual Budget Statement 27 February 2004, Hansard Volume 77.

¹⁸ *More firms offering family care leave says survey*, The Straits Times, 21 December 2006.

increased in 2005¹⁹. Other countries such as Korea had a much lower unemployment rate among women, with the rate reaching 3.3% in 2005²⁰.

11.9 The majority of women who choose to remain economically inactive do so in order to fulfill the housewife/homemaker role. Statistics show that 61% of females choose to remain economically inactive for this role, while only 0.9% of males remain economically inactive for similar reasons²¹. This further indicates that women are still pursuing traditional household roles and that the Government is not providing sufficient social support to empower women to enter and remain in the workforce. It reflects the pervasive culture that men are still being given the traditional place as heads of households.

11.10 The Work Development Agency, under the Ministry of Manpower, has set up an Employability Skills System²² (ESS) which trains applicants in a particular field and also imparts general skills (eg. literacy, computer use skills) to enable these workers to be certified by the WDA and so become more employable by private firms after their training and certification. There is no data on how applicants are chosen and whether any accommodation is made for women who already struggle with the demands of family and work and may not even be able to attend such training to secure their current jobs or have access to newer challenges.

Gender wage differentials

11.11 Wage differentials according to gender continue to exist. The majority of females (65.6%) earn \$2000 - \$2,999 and below; whereas the majority of men (63.5%) tend to fall into the income bracket of \$2,000 - \$2999 and above. The number of males who earn \$10,000 and above are more than double the number of females who earn the same amount²³.

11.12 Wage equality between genders is hindered by three factors. Firstly, male- and female-dominated industries and occupations in Singapore continue to exist. Secondly, males tend to occupy higher-earning positions and status, and part of

¹⁹ See Appendix 11.7.

²⁰ Korea Economic Institute website, "Korea Insight", July 2006. www.keia.org/2-Publications/2-1-Insight/Insight-July06.pdf.

²¹ Ministry of Manpower Report on Labour Force 2004, www.mom.gov.sg/publish/etc/medialib/mom_library/mrsd/files.par.34944.file.dat/2004LF_findings.pdf

²²

http://www.wda.gov.sg/Programmes/Adult_Learning/Singapore+Employability+Skills+System+%28ESS%29.htm

²³ See Appendix 11.8.

this could be attributed to the cultural conditioning of having men as the heads of households and as breadwinners for the family. The percentage of females in managerial and executive positions continues to remain low at 27.5%. Females also make up only 23.5% of employers and 22.3% of self-employed, but account for 70% of unpaid workers. Thirdly, under the Enlistment Act²⁴, it is common practice for only male Singaporean residents and Permanent Residents to undergo two years of full-time National Service training at the age of 18, with an entitlement to salary increments and/or tangible benefits upon completion of the training²⁵. Though it is not clearly stated in the Act that only men should enlist, this has been the common practice. There is currently no legislation equivalent to the National Service policy that applies to directly to females.

11.13 On National Service, it has been argued a few times in Parliament²⁶ that the definition should be broadened to include community service, paramedical services and terrorism-support services. It was also argued that with today's technology, the military training was being increasingly geared towards intelligence and marksmanship of a new order that opened new fields of expertise equally for both men and women to excel in. In short, a newer approach to National Service could offer a compulsory stint to both men and women, as is done in Israel.

11.14 There is a lack of data to clarify the reasons for wage differential between genders. This includes gender-disaggregated data based on qualification (field of study/work experience), age group, occupation, hours worked and wage (excluding National Service increments). Such data is needed in the investigation of whether wage differentials exist due to direct gender discrimination and/or existing gender-dominated industries/occupations.

Employees not protected by legislation

Confidential staff and managerial and executive positions

11.15 "Executives, seamen and confidential staff" are excluded from protection under the provisions of the Employment Act. The Government's rationale for excluding managerial and executive positions is that these individuals are in a better position to negotiate their own terms of employment. AWARE contends that workers are disadvantaged by this exclusion for the following reasons: those excluded from the Employment Act are often not protected by unions; many young personnel are

²⁴ See Appendix 11.9.

²⁵ MINDEF website, *Supporting our NS Men: An employers' guideline*. See also statistics on employment rates and gross monthly salary for fresh graduates and post-National Service graduates produced by Temasek Polytechnic [Online] – Graduate Employment Survey 2006, <http://www.tp.edu.sg/events/press/2006/ges1.pdf>.

²⁶ See Hansard Volume 77, Ministry of Defence discussion on 15th March 2004.

given designations as managers and directors but may not necessarily be able to negotiate their own terms of employment; and that the definition of “confidential” is so wide that most employees are deemed to be bound by conditions of confidentiality on almost anything at their workplace

Foreign domestic workers

- 11.16 The status of Foreign Domestic Workers (FDWs) needs to be clarified in terms of whether they come under the category of persons who “do not have the right under the laws of Singapore to enter and remain indefinitely in Singapore”. If this is the classification then this category of people are excluded from CEDAW on the premise that the provisions of Article 11 should not be applied to them. However AWARE respectfully objects to this classification as it is an interpretation of the status of FDWs where CEDAW coverage is concerned. As long they reside in Singapore and some have worked here for more than 30 years there is a need to bring FDWs on board as women residing in Singapore, and so need to be protected and not discriminated against.
- 11.17 More than 160,000 migrant women work as domestic helpers in Singapore homes. Singapore has the among the world’s highest concentration of FDWs – one in seven households has a foreign domestic worker. They are not adequately protected by legislation (although there are various guidelines issued to employers and regulations governing employment agencies). AWARE rejects the Government’s argument that legislation is unnecessary given the difficulties to enforce it. Paragraph 11.52 of the Government’s Third Periodic Report to CEDAW²⁷ states that FDWs are encouraged to enter into contracts with their employers to protect them and that this is sufficient legal protection for them. Recent arguments have been put forward that families have specific needs and there must be flexibility in arrangements between employers and employees which then implies arbitrary terms in contracts to meet specific needs of employers. The Government also argues that legislation is not needed in this area of the contract and that market forces should determine wages and other conditions for foreign maids²⁸. This position needs to be rejected as FDWs do not have sufficient bargaining power to negotiate their own terms and conditions of employment, and are in need of protection just like any other worker. In making domestic work a special case, the Government is being discriminatory in valuing the work and the worker differently from other Singapore workers.
- 11.18 FDWs are largely less educated and worldly-wise compared to their employers. They arrive in Singapore with hope and trust. There are inconsistencies in their

²⁷ November 2004.

²⁸ Hansard; 18th March 2004; Ministry of Manpower; Foreign Domestic Workers Guidelines by Dr. Ng Eng Hen.

wages, household tasks, work hours and rest hours. AWARE acknowledges that the Government has made many improvements in the last three years: raising the entry criteria to workers aged 23 and above; requiring a minimum of eight years of education; requiring new employers to pass an orientation course (though new employers can opt to do this online); cajoling the agencies to govern their members and move towards a standard contract. The Ministry of Manpower also monitors employers who ask for new employees - FDWs (four changes in a year) - and has set up interviews with them to assess their suitability. It has also prosecuted one employer for non-payment of wages and shut down an agency for bad housing of FDWs who were waiting for placement with employers²⁹. AWARE acknowledges the efforts of the Government to bring some governance into this industry – mediation processes, prosecution of abusive employers and availability of educational materials in different languages.

11.19 But the Government's guide on the Employment Contract for FDWs is not legally binding as these workers are not covered under the Employment Act³⁰. In September 2006, a new form of standard contract was introduced by the Association of Employment Agencies³¹ and CaseTrust. AWARE together with NGOs working in the area argue that while this is an improvement, especially in curtailing disputes between employers and agencies, it hardly adds to protect FDWs in any significant manner, as there are too many arbitrary terms, such as the number of days off, that are left to be agreed on between employer and FDW. The number of rest hours and privacy issues were also not clearly spelt out. AWARE supports TWC2's critique of the standard contract from the two parent agencies. FDWs are financially dependent on their employers to repay debts and to build new dreams. Because they work in a home environment, it becomes even more important for them to be protected via legislation that the Government has not been keen to enact.

11.20 This is further aggravated if the FDW is sexually harassed by her employer or members of the family. The only seeming redress lies in clause 17 of the standard term contract drafted by the Association of Employment Agencies Singapore (AEAS) - MOM's "strategic partner"³² in working towards making Singapore a

²⁹ The Singapore High Court in October 2004 for the first-time ordered an employer to pay \$3,580 to compensate her FDW for failing to pay her wages. This was the first MOM prosecution of an employer for non-payment of salary; MOM closed the Grand Pacific Manpower Consultancy in December 2005 for its ill-treatment of Indonesian and Filipino recruits, i.e. forcing them to sleep in the kitchen and backyard, withholding their passports, and failing to repatriate them. www.siaaonline.org/foreign_domestic_workers#453.

³⁰ See Appendix 11.10. Employment Act chapter 91, section 2. The Employment Act is the primary law governing the terms and conditions of employment in Singapore. The Act mandates one rest day per week, a 44-hour work week, capped salary deductions and 14 days of paid sick leave.

³¹ The two associations are the Association of Employment Agencies (AES) and CaseTrust. This standard contract (see Appendix 11.11) has too many arbitrary terms for days off, hours of rest and privacy for it to be standard. See TWC2's comments in <http://www.twc2.org.sg/cms/content/view/161/1>

³² <http://www.aeas.org.sg/>

better workplace for migrant domestic workers. Clause 17 of the standard term contract states quite simply that “the employer shall provide safe working conditions for the FDW at all times.” Again, this is vague and does not specifically address the danger of sexual harassment. If tried in court, the judge(s) might interpret clause 17 as limited to issues of personal safety from workplace accidents rather than a more general clause protecting the FDW’s overall safety and security of person. Even if the court chooses the more robust reading of clause 17 to penalize sexual harassment, this will only be of use in situations where the standard term contract is signed by the employer and his FDW . As of date, the terms in the standard term contract or the contract is not mandated by law. It is still a guideline with access to protection once the police are alerted for Penal Code offences and the Ministry of Manpower mediates for breaches of contract. To date AWARE understands that only one employer has been convicted for non-payment of wages for an FDW.

- 11.21 It is a challenge to regulate the agencies and those operating in sender countries. A TWC2 study³³ of FDWs showed that Indonesian FDWs are the most susceptible; they pay between four and nine months of their salaries back to agencies, while most Filipinos pay S\$1,600 as agency fees to get to work in Singapore. Sri Lankans were in debt up to four months, but it is not known what kinds of debts are incurred with moneylenders back in their home country. The FDWs continue to fill the pockets of private entrepreneurs and work hard to keep a whole industry alive. This lack of governance and transparency makes the situation ripe for exploitation by the unscrupulous.
- 11.22 The Government also garners almost \$50 million a month from the levies that employers pay for employing FDWs. Calls have been made for a portion of that money to be used to enhance training for re-integration, to set up support schemes for FDWs and to pay for their own insurance,³⁴ but they have been turned down. AWARE joins the NGOs in this area to ask that a portion of that levy be ploughed back to protect FDWs, especially when they fall ill, or be channelled into a small fund for them to use when they go home. See further discussions on this issue under Article 6 and Article 16.

Employment of older women

- 11.23 The employment rate of older women aged 55 to 64 in Singapore is low at 30%, compared to countries such as Japan (50%), Korea (46%) and the United States (54%)³⁵. The employment rate of older women is significantly lower than that for

³³ Debts, Deductions and Delay: Wage Issues Faced by Foreign Domestic Workers in Singapore; September 2006; research by Transient Workers Count Two (TWC2).

³⁴ Hansard; 15th March 2003; Ministry of Manpower questioned by Nominated Member of Parliament, Ms Braema Mathiaparanam.

men³⁶. Very few employers offer opportunities to hire and re-employ older workers, particularly women. The Government has launched schemes such as “Advantage”³⁷ to provide funds to organisations to encourage re-employment of the aged. However, the low take-up rate of older women indicates that companies are still not considering re-training and re-employing older women. This could be due to various reasons, including insufficient government funding and planning/facilitating of the hiring and training processes. In Budget 2007, the new Workfare Income Supplement (WIS) Scheme was introduced to help older low wage workers increase their employability and their take-home pay, encouraging low wage workers to find and stay in work, while at the same time building up their CPF for retirement, housing and healthcare needs.³⁸ While AWARE applauds this initiative, much remains to be done to ensure that such a scheme and that the Budget as a whole is inclusive of women who are older, struggle to balance work and family commitments. Parliamentarians also echoed similar concerns³⁹ and urged that the scheme be conducive for stay-at-home mothers to return to the workforce and that special bonuses be also extended to get the women back into the workforce.⁴⁰ It needs to be said that these concerns are often premised on not wasting the productive resource in women rather than from a perspective that policies have discriminated one gender from remaining active in the workforce.

11.24 At present, there are no laws against discrimination. AWARE is concerned by the apparent lack of long-term policies that need to be implemented to help older

³⁵ See Appendix 11.12. Ministry of Manpower, Speech by Mr Gan Kim Yong. 4 March 2006. See also statistics in the Ministry of Manpower’s report on Employment Rate in Singapore, released in October 2006

http://www.mom.gov.sg/publish/etc/medialib/mom_library/mrsd/ms.Par.12156.File.tmp/mrsd_employment%20rate%20in%20singapore.pdf.

³⁶ See Appendix 11.13. Ministry of Manpower. Report of the Tripartite Committee on Employability of Older Workers, 2004.

³⁷ *Manpower Minister says enough jobs for new entrant*. Channel NewsAsia, 8 March 2006.

³⁸ http://www.mof.gov.sg/budget_2007/expenditure_overview/social_dev.html

³⁹

http://www.parliament.gov.sg/parlweb/get_highlighted_content.jsp?docID=667153&hlLevel=Terms&links=BUDGET&hlWords=%20%20&hlTitle=budget&queryOption=1&ref=http://www.parliament.gov.sg:80/reports/public/hansard/full/20070228/20070228_HR.html#1

⁴⁰ *ibid*; As MP for Tampines Constituency Ms. Irene Ng noted in Parliament, “...It is a question of priorities and practicalities. Some women, faced with most of the burden of taking care of families, are forced to choose jobs that pay less or, in the case of stay-at-home mothers, nothing at all... With the WIS, it may now be worthwhile for stay-at-home mothers to return to the workforce. I would urge the Government to pay special attention to this group as every year, they feel left out from the Budget as if they are invisible. I have heard my fellow MPs ask for special bonuses to the housewives and I would add my voice to that call but, more than that, to help housewives to get back into the workforce so that they can benefit from the WIS....”

women, who outlive men⁴¹, to continue to have a sustainable standard of living and be happy⁴². The approach to healthy ageing means financial security, formal and informal work, health, lifelong learning opportunities and barrier-free access. The Government and the social service sector have many services⁴³ but they are being buried under too many acronyms and a lack of clarity as to who the service providers are. This makes it difficult for women and men, many of whom may not be computer-literate to capitalize on the resources available to them. Financial security is crucial, yet there are still cases of husbands who on retiring withdraw their money from the Central Provident Fund and re-settle in neighbouring countries. AWARE argues that most women are still not earning as much as their spouses and yet they play a supportive role in helping families and augment the family income in this manner. Yet the CPF savings scheme is made distinct between individual spouses while both can use their money to educate their children, build a home together and pay for medical bills. It is time for this scheme to operate as a Joint Family Savings Plan for the whole family, so that women who willingly share their CPF savings are adequately protected if the marriage breaks down or if their spouses withdraw their own CPF savings and set up homes in neighbouring countries. AWARE also argues that in an asset-rich country, reverse mortgage offers from banks are not attractive enough as alternative income possibilities for the ageing woman, who in all likelihood will be outliving her spouse and living alone.

Paid family, maternity and paternity leave

11.25 The proportion of private sector companies that provide family care is low at 12%, up from 7% in 2004⁴⁴. The provision of paid family leave benefits (excluding

⁴¹ Women in Singapore have a life expectancy of 81.8 years compared to 78 years for men (data for 2006 from <http://www.singstat.gov.sg/keystats/annual/indicators.html>).

There are some 106,700 widows of whom 93% are aged 50 and above and 22,600 widowers of whom 82% are aged 50 or above. Census of Population 2000. <http://www.singstat.gov.sg/keystats/c2000/r1/t14-19.pdf>. See also *Not soldiering on alone... Widow lucky to have family, but what about others? Not just daughters, sons chip in too*. Today. 21 November 2005.

⁴² A new society, WINGS(Women Initiative for Ageing Successfully) was set up with funds from the government and donors, to help prepare women for the Ageing process. WINGS is a joint venture of Singapore Council of Women's Organisations and Tsao Foundation

⁴³ The Tripartite Action Group (TAG), spearheaded by SNEF and supported by NTUC and MOM, is yet another initiative to enhance the employability of older workers and promote age-friendly workplace practices. The proposed work includes training HR personnel and line managers on responsible HR practices with an aim to enhance older workers' employability.(<http://www.sgemployers.com>). However, the website does not elaborate on the specifics or results of its campaign, so it is not known if the training involved takes heed of the specific nature older women's needs in employment issues.

⁴⁴ See Appendix 11.14. According to the Ministry of Manpower, family care leave refers to paid leave granted to employees for taking care of their children/spouse/elderly parents/other sick family member(s). It excludes maternity or paternity leave. Ministry of Manpower and Statistics Department, Conditions of

paternity and maternity leave) is also restricted to a few selected industries, with the administrative and supporting services sector showing a mere 4.4% of establishments offering such benefits⁴⁵. Only 43% of companies provide paid paternity leave. These policies perpetuate the perception that the pursuit of family life is primarily a female role, and do not promote the sharing of familial duties between genders.

Health and safety

11.26 Singapore has entered a reservation to Article 11(1f) citing its duties to safeguard the welfare of women and their unborn children from certain hazardous occupations, namely from combat or combat-related duties in the Singapore armed forces.

11.27 This reservation should be withdrawn in its entirety. It is paradoxical that a reservation to the entire Article 11(1) was entered citing duties to safeguard the welfare of women and their unborn children from certain hazardous occupations. Yet in acceding to 11(1f) and 11(2d) there is an opportunity to appraise systems and improve safety for both women and men and also protect the function of reproduction in both parties. Article 11(2d) allows the State to give added protection to the pregnant woman working in such an environment and so not bring harm to any foetus.

11.28 If as the State argues for its reservation in its report⁴⁶ that unborn babies need to be protected there are many ways to approach this when a woman is pregnant and working in a 'hazardous environment' – she can enter an agreement with the employer for re-designation during her pregnancy as no single person would also like to harm an unborn child through such exposure. But the primary role is still to create safe work environments.

11.29 There are also other areas that need to be addressed where women's safety in the workforce can be compromised., This is discussed in Article 12.

Dismissal of pregnant women

Employment 2006.

http://www.mom.gov.sg/publish/etc/medialib/mom_library/mrsd/ec.Par.19586.File.tmp/mrsd_coe2006.pdf.

⁴⁵Ministry of Manpower and Statistics Department, Conditions of Employment 2006.

http://www.mom.gov.sg/publish/etc/medialib/mom_library/mrsd/ec.Par.19586.File.tmp/mrsd_coe2006.pdf.

⁴⁶ Singapore's Initial Report to CEDAW Committee; January 2000; Para 2.4; 2.5;
http://www.mcys.gov.sg/MCDSFiles/download/CEDAW_initial_report.pdf

- 11.30 Under the Employment Act sections 81 and 84⁴⁷, no employer is allowed to dismiss an employee who is away on maternity leave, nor is that employee allowed to resign and use her maternity leave as notice. Pregnant women in their last trimester are also protected by law against unfair dismissal. If a woman who is six or more months' pregnant is sacked for no just cause, she is still entitled to eight weeks' paid maternity leave as well as to appeal to be reinstated in her job⁴⁸.
- 11.31 However, pregnant employees still face discrimination and unfair treatment, especially since maternity leave was extended to three months on the 1st of October 2004. The number of complaints on this issue reached 36 in 2004⁴⁹ and increased by 54% to 78 in 2005⁵⁰. In the first five months of 2006, the National Trades Union Congress (NTUC) received 23 complaints from women who felt they were wrongly dismissed, were not given benefits due to them, or were not fully paid their maternity benefits⁵¹. Between June 2004 and October 2006, AWARE received 50 cases of women who were concerned that their pregnancy might lead to a termination of employment and in some cases they were already terminated. Some had not been dismissed but were transferred to other departments, were demoted, or suffered a pay cut. All of them said they were above average performers at work who had never had serious problems with their supervisors or bosses before their pregnancies.
- 11.32 The Employment Act alone is inadequate in protecting the rights of pregnant women and providing assurance to pregnant workers that their jobs are secure. In one case, a pregnant employee was dismissed after returning from her maternity leave and was not given maternity benefits⁵². In four other cases, women employees were sacked after they informed their employers about their pregnancy⁵³.
- 11.33 Under the Employment Act, a new employee has to work for at least 180 days to be eligible for maternity benefits⁵⁴. Section 84⁵⁵ of the Employment Act protects

⁴⁷ See Appendix 11.10.

⁴⁸ Enterprise at NUS: A Handbook.

⁴⁹ "Pregnant? Sorry, you're out". Today Newspaper, 21 July 2005.

⁵⁰ "Pregnant and facing the sack: more seek help". The Straits Times, 3 July 2006.

⁵¹ "Pregnant and facing the sack: more seek help". The Straits Times, 3 July 2006.

⁵² "Woman on maternity leave replaced by temp", The Straits Times, 1 July 2006.

⁵³ "Mum, You're Fired". Today Newspaper, 5 April 2005.

⁵⁴ "Law should protect pregnant mums who are retrenched". The Straits Times, 11 June 2005

⁵⁵ See Appendix 11.10.

- pregnant women from dismissal after six months of pregnancy. An employer could therefore terminate an employee's services during the first six months of pregnancy and not pay maternity benefits, or be obliged to state their reason⁵⁶. There have been various cases of pregnant employees who were terminated before six months of pregnancy and did not receive maternity benefits.
- 11.34 Section 76(4) of the Employment Act⁵⁷ states that a female employee cannot collect any benefits if she has two or more children at the time of confinement. Therefore, a pregnant employee who worked less than 180 days or has more than two children is not entitled to maternity benefits or the working mother subsidy for childcare services under this Act. But under the Children Development Co-Savings Act, benefits are given up to four children, though foreign wives are not entitled to these benefits.
- 11.35 Women who are pregnant also face discrimination when applying for jobs. In one case, a 29-year-old woman was dismissed from work due to her pregnancy and went for 20 to 30 interviews, but nobody wanted to hire her because she was pregnant⁵⁸. The Government has attempted to address this and other areas of discrimination through its work with employers and unions in the Tripartite Alliance for Fair Employment Practices. The Alliance has recently published guidelines⁵⁹ to employers to encourage fair practices in the areas of: selection, recruitment, remuneration, appraisal, promotion, dismissal and retrenchment and grievance handling, specifically mentioning gender. AWARE welcomes the guidelines and the plan to set up a centre to promote awareness of fair employment practices. However, these measures remain voluntary, and as of May 2007, a mere 400-odd employers⁶⁰ have pledged to follow them. While guidelines serve as important reference points, real and sustained changes in employment practices will come about only when there is commitment by employers.
- 11.36 If an employer is found in breach of section 81⁶¹, she/he would only be liable for a fine up to \$1,000 or up to six months' imprisonment or both. This precedent is still ineffective as a deterrent, as it suggests that an errant employer bent on removing his female staff can get away by paying a small fine even if the sum is paid to the dismissed employee.⁶²

⁵⁶ "Law doesn't fully protect pregnant workers", The Strait Times, 17 June 2005.

⁵⁷ See Appendix 11.10.

⁵⁸ "Pregnancy: A job liability", Young Parents, August 2005.

⁵⁹ For full text see http://www.sgemployers.com/public/industry/tafep_guidelines.pdf.

⁶⁰ *New employment guidelines aim to end discrimination*. The Straits Times. 4 May 2007.

⁶¹ See Appendix 11.10.

⁶² "Close loophole to help pregnant employees". The Straits Times, 20 June 2006.

Supporting social services for women

Flexible work arrangements

11.37 Although the Government has been reinforcing policies and practices to support a family-friendly environment, many multinational corporations and local companies are still not embracing flexi-work arrangements.

11.38 Working mothers will always encounter difficulty in fulfilling their twin roles of meeting work and family obligations. Flexible work arrangements⁶³ will help reduce stress and allow working mothers to balance their work and family obligations, such as caring for elderly and newborn babies. Statistics shows that only 5.3 per cent of employees were on flexible work schedules in 2006, up from 4.1 per cent in 2004⁶⁴. A mere 0.5% were on flexi-time arrangements, the rest were working part-time (3.6%), staggered hours (1%) and teleworking (0.1%). The majority of employees considered to be on flexi-work arrangements were part-time workers in the restaurant and retail sectors⁶⁵. The Government itself has recognised that more flexible work arrangements are required if women are to stay in the workforce⁶⁶. AWARE is of the view that measuring true family-life-work balance should be against the ideal of a woman being able to take on and maintain a job most suited to her educational qualifications and capabilities and not simply a less senior and less well-paying position such as a part-time job, taken on because there are no better alternatives. AWARE has also argued for recognition of domestic work and paying the worker (women and men) who stay at home to do it.⁶⁷

Care centres for elderly and children

11.39 There are currently 20 day care centres for the elderly, one of which targets Chinese women exclusively⁶⁸. As far as AWARE knows, there are currently no women-only day care centres for the Muslim, Malay and Tamil communities. This is a missed opportunity, as it is known that as people grow older, they are

⁶³ “Flexi-hours not popular with firms”, The Straits Times, 18 January 2005.

⁶⁴ Ministry of Manpower Conditions of Employment 2006.
http://www.mom.gov.sg/publish/etc/medialib/mom_library/mrsd/ec.Par.19586.File.tmp/mrsd_coe2006.pdf.

⁶⁵ Ministry of Manpower Conditions of Employment 2006.
http://www.mom.gov.sg/publish/etc/medialib/mom_library/mrsd/ec.Par.19586.File.tmp/mrsd_coe2006.pdf

⁶⁶ Ministry of Manpower report on Employment Rate in Singapore released in October 2006, para 6.2.
http://www.mom.gov.sg/publish/etc/medialib/mom_library/mrsd/ms.Par.12156.File.tmp/mrsd_employment%20rate%20in%20singapore.pdf.

⁶⁷ *A Mother’s Day Gift*, TODAY newspaper, 7 May 2007

⁶⁸ MCYS [Online], 2006. [Http://app.mcys.gov.sg/web/serv_dss_main_result_criteria.asp](http://app.mcys.gov.sg/web/serv_dss_main_result_criteria.asp)

more comfortable in their own lingua franca and find comfort in such environments. AWARE is saddened by the sheer obstinacy of the Government in not wanting to air programmes in dialects on radio for older Chinese women and men because it feels that such provisions would derail the drive to get the Chinese community to speak Mandarin.

- 11.40 With an ageing population and the lack of supporting resources and services, family members, primarily women and single mothers, will face even more demands on their time as caregivers. Statistics show that the number of seniors (aged 65 and above) will increase from 8.4% in 2005 to 18.7% in 2030⁶⁹. The first batch of Baby Boomers will hit 65 by 2012⁷⁰. Therefore, there is a need to care for the increasing number of aged people, by providing more convenient and better-quality elderly care centres to help family members, primarily women, to cope with the double burden of work and family obligations.
- 11.41 The Labour Force Survey 2004 shows that 13% of economically inactive women remain economically inactive to look after their children⁷¹. In 2005, 22.5% of women left work because of childcare or housework⁷². There are currently 644 children day-care centres and 65 infant day-care centres⁷³. AWARE welcomes the MCYS's recent announcement of plans to increase the number of facilities to 3,000 by 2009. However, although childcare centres are widespread, women still leave their jobs or remain economically inactive. This indicates a lack of confidence in the childcare resources, as well as issues related to cost. The point has been raised that there is a lack of well-qualified childcare personnel. Even if one were to assume that each child stays with a childcare centre for four years, and only 30,000 out of each cohort of 40,000 children born each year need such arrangements, we are still short of centres. Singapore would need, based on a ratio of 25 children to one facility, almost 5,000 centres for 30,000 children to remain in childcare centres that open long enough to help parents remain in the workforce.
- 11.42 With the increasing number of childcare centres in Singapore, there are inadequate qualified childcare givers. According to the Ministry of Community Development, Youth and Sports, there are 24 agencies that offer pre-school training courses in Singapore⁷⁴. However, there are currently no recognised local university degrees that provide early childhood education. Ngee Ann Polytechnic

⁶⁹ MCYS [Online], Report on Ageing Population, 2005.

⁷⁰ MCYS [Online], Report on Ageing Population, 2005.

⁷¹ Ministry of Manpower, Labour Force Survey 2004. See also under Article 11.3

⁷² Singapore Department of Statistics, General Household Survey 2005. See footnote 9.

⁷³ Childcare Service, MCYS website, www.mcys.gov.sg/web/faml_nurture_childcarectr.asp

⁷⁴ MCYS [Online], 2006.

is among a few recognised institutes that are currently providing full-time diploma courses on early childhood education (a three-year course). However, up to 2006⁷⁵, only 404 students had graduated from the early childhood education programme at the polytechnic. There are complementary courses – a few limited certified training programmes for carers of infants and toddlers, and limited development programmes for carers of children. All these point to the inadequate preparation for well-qualified educators and trainers. The current number of qualified educators and trainers is insufficient to staff the available childhood centres in Singapore (a ratio of 0.6 to 1).

11.43 Childcare centres in Singapore are not consistent in standard and quality management techniques. In 2002, research into caregivers' perspectives on childcare centres suggested that care centres were short staffed and had a high turnover in teachers. The caregivers further indicated that programmes were too academic and achievement-oriented, thus putting a lot of pressure on children⁷⁶. Research into childcare staffing shows that Singapore centres are allowed to operate with much lower staffing levels than those in other developed countries. The Ministry for Community Development, Youth and Sports recommends a ratio of one programme staff to 25 children 4-6 years old⁷⁷. In Britain, the recommended ratio for 3-7 year-olds is 1:8⁷⁸, while the US recommends 1:7 for 4 year-olds and 1:8 for 5-6 year-olds⁷⁹. Hong Kong has recommended a ratio of 1:15 for all nursery and full-day kindergarten classes and 1:14 for childcare centres⁸⁰.

11.44 The research also revealed the perceptions of another group of Singaporean adults who were interested in becoming caregivers. They found care centres to be too expensive and business-oriented (as opposed to education-centred), which led to high teacher-child ratios and inconsistent standards.⁸¹

⁷⁵ Ngee Ann Polytechnic [Online], Statistics of Graduate Output, available from: <http://www.np.edu.sg/aa/stats.html>. There are also no degree programmes at local universities although there are some degree programmes on a distance learning basis with some local universities offering certificates/ diplomas on a part-time basis.

⁷⁶ World forum on early care and education [Online], 2002, Accreditation and Quality for the Children of 2010. Available from: http://www.worldforumfoundation.org/wf/history/presentations/index.php?p=2002_wong

⁷⁷ "Guide to Setting Up a Child Care Centre", produced by the Family Services Division of MCYS, September 2006. <http://www.childcarelink.gov.sg>.

⁷⁸ National Standards for Under 8s Day Care and Child minding, 2003, produced by the Department for Work and Pensions.

⁷⁹ <http://aspe.hhs.gov/hsp/ccquality-ind02/#Staff1>.

⁸⁰ Report of the Reconstituted Working Party on Kindergarten Education, December 1995.

Discrimination against single parents

11.45 A guide⁸² to the community resources that single parents may turn to for “help and support” when they face certain issues after the death or divorce of a spouse is available on the MCYS’s website. However, this guide is prepared with only divorced or widowed single parents in mind. The remaining single parents, i.e. unwed parents, are invariably sidelined by such distinction. Other policies such as housing for single parents also seem to take on the same discriminatory attitude: the Public Scheme⁸³, CPF Housing Grant Scheme⁸⁴, and Public Rental Scheme⁸⁵ allow widowed or divorced citizens with children under their legal custody to purchase an Housing Development Board (HDB) flat direct from HDB, which will be much cheaper than buying a resale HDB flat off the market; to obtain a housing grant as financial assistance when they buy a resale flat in the open market; or to rent a one- or two-room HDB flat at subsidised rates if they cannot afford to buy. The question to be considered is whether this reflects the general tenor of the State’s approach, that is, .if, despite all the talk about an inclusive society and Singapore being a home for all, unwed single parents are going to be ostracized.

RECOMMENDATIONS

Gender imbalance in the labour force

11.46 The Government should boost female labour participation by investigating whether social support services are sufficient and effective, and whether family-friendly policies are being applied in the private sector in order to support working mothers. Where such policies exist, the Government should help organisations implement practices effectively.

11.47 AWARE urges the Government to take action to investigate gender imbalance based on occupational status. The Government should also boost the level of female employers and self-employed.

⁸¹ World forum on early care and education [Online], 2002, Accreditation and Quality for the Children of 2010. Available from:

http://www.worldforumfoundation.org/wf/history/presentations/index.php?p=2002_wong

⁸² “Moving On - A Single Parent Guide”, found at

http://app.mcys.gov.sg/web/serv_resfam1.asp?szMod=serv&szSubMod=fam1#SN

⁸³ http://www.mcys.gov.sg/MCDSFiles/Resource%5CMaterials%5Csingle_parent.pdf.

⁸⁴ http://www.mcys.gov.sg/MCDSFiles/Resource%5CMaterials%5Csingle_parent.pdf.

⁸⁵ http://www.mcys.gov.sg/MCDSFiles/Resource%5CMaterials%5Csingle_parent.pdf.

- 11.48 The Government should investigate and address female issues based on age group, as this will further help in addressing female issues more effectively and also help improve the declining female participation rate across the age group categories.
- 11.49 AWARE urges the Government to take action to investigate and improve female participation across industries. This includes examining reasons why gender-dominated industries continue to exist. Acquiring information on gender-dominated industries requires further statistics to examine the percentage of females versus males applying to a job, based on the industry and their qualifications and acceptance rates. This can help to examine whether industries and employers show preferences based on gender or qualifications, or whether this is due to there being more female applicants than male, or vice versa.
- 11.50 AWARE urges the Government to review and re-evaluate human resource practices in schools, including hiring practices and the system for appraisals and promotions. The Government should also ensure that schools establish programmes to hire, promote and assess principals and teachers in a systematic approach. Such an approach should ensure equal opportunities for female and male advancement in a transparent manner.

Unemployment among women

- 11.51 AWARE urges the Government to examine further the reasons for the increase in the female unemployment rate. The Government should gather statistics to examine the ages, professional qualifications, industry backgrounds and family situations of unemployed women, together with the reasons given by prospective employers for not employing them.

Gender wage differentials

- 11.52 AWARE suggests that the Government explore gender-related data based on qualifications (field of study/work experience), age group, occupation, working status, hours worked and wage (excluding National Service increments) together with other data that will help identify the cause of wage differentials between genders.
- 11.53 AWARE urges the Government to take further action to improve the level of female participation across industries and their advancement to other positions, by encouraging organisations to implement family-friendly policies and practices. Progress should be monitored continuously.

Employees not protected by legislation

11.54 AWARE advocates legislation to protect and include foreign domestic workers and confidential workers in the CEDAW Convention, on the basis that the provisions of Article 11 should apply to them. AWARE suggests the following points:

- a) For workers not covered by the Employment Act, the Government should be more assertive in allowing working groups to ensure that companies and employers in different sectors adhere to the pledge to implement guidelines from the Tripartite Guideline for Fair Employment Practices. The Government would then be able to use the Guidelines as a reference point in settling disputes.
- b) The Government should encourage employers to provide workers not covered by the Employment Act with the benefits.
- c) To avoid discrimination in areas of employment, it is nonetheless important (especially in the absence of equal employment opportunity legislation in Singapore) that the reservation to Article 11 be withdrawn and the Constitution be amended to add “gender” and “marital status” in its anti-discrimination clause. This would be consistent with the aims of the Code of Responsible Conduct and various pronouncements of the Government.

Employment of older women

11.55 The reservation to sub-Article 11(e) should be withdrawn in light of Singapore’s compulsory social security scheme that provides for healthcare, retirement, home ownership, family protection and asset enhancement. At best, there could be a qualified reservation to reflect the lack of unemployment benefits.

11.56 The Government must encourage organisations to re-train and hire older women. Such actions could be advocated by providing more funding in addition to planning, facilitating and monitoring the training and hiring process, as well as investigating reasons why employers are discouraged from hiring older women.

Foreign Domestic Workers

11.57 AWARE advocates that FDWs be represented under the Employment Act so that there can be clear-cut protection for all workers.

11.58 The Government needs to recognise domestic work as work and hence invest more directly in training, insurance schemes and funds for the workers, many of whom have spent lifetimes here.

11.59 There needs to be greater regulation in the agency industry so that the exploitation is stopped at that level.

11.60 This issue needs to be recognised as complex and requiring the setting up of a multi-stakeholder dialogue that is transboundary in nature.

Paid family, maternity and paternity leave

11.61 AWARE urges the Government to review existing parental leave policies in employment settings to complement or replace, in part, maternity leave. This will allow couples to decide on paternal or maternal leave or both in a way that best suits their situations. This approach could be more conducive to reproduction for couples in Singapore.

Health and safety

11.62 AWARE submits that the reservation to Article 11(f) should be removed.

Dismissal of pregnant women

11.63 AWARE proposes the following points to protect pregnant women in the workforce:

- a) Strengthened protection against individual dismissal during maternity by providing that dismissal may only occur where an employer's operations cease completely.
- b) Protection during maternity leave, particularly during the first year after childbirth, by prohibition of any dismissal becoming effective during this period.
- c) All pregnant women who are proven to have been dismissed due to pregnancy should be able to be reinstated regardless of their length of service. Furthermore, dismissed pregnant employees who are entitled to maternity benefit should be able to claim it and/or receive incentives/benefits equivalent to maternity benefits.
- d) Enforcement of the laws against those who violate them is needed to send a strong signal to others to take their legal obligations seriously. There is a need to educate employers on their legal obligations and beyond.

Supporting social services for women

11.64 AWARE urges the Government to encourage through fiscal incentives and awards to companies to provide human resource and other support services for working mothers. The Government should host or organise conferences to provide tools and information for companies to develop their human resource departments in these areas.

11.65 AWARE calls on the Government to take action to encourage and help organisations to plan flexible work arrangements suitable for the organisation and parents. Reconciliation between family and professional responsibility and family tasks between men and women needs to be promoted, notably paternity leave for

men and promoting part-time work for either mothers or fathers, especially in the private sector.

Care centres for elderly and children

11.66 In order to support working mothers and ensure better quality care centres, AWARE proposes the following:

- a) Increase the number of elderly care centres and develop women-only care centres for Muslim and other communities in Singapore.
- b) Investigate mothers' perceptions of daycare centres and explore areas to be improved.
- c) Raise standards and guidelines for care centres. The Government should appoint an advisory board to monitor, evaluate and assess care centres to ensure that such regulations are enforced.
- d) The Government should create a mechanism to ensure that caregivers undertake recognised courses and undergo certified training related to early childhood. The Government should also work with universities to provide courses that cover sufficient training and knowledge for caregivers.
- e) Offer subsidies for older persons to be trained in childcare work. This will increase the capacity of childcare services available to working mothers.

Article 12

ARTICLE 12

HEALTH

State parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

Notwithstanding the provisions of paragraph 1 of this article, State parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

- 12.1 Population Action International (PAI) ranked the reproductive health of women in Singapore as 16th among 25 low risk countries.¹ Overall Singapore enjoys a low maternal mortality ratio (MMR)² and women have easy access to healthcare and modes of payment that are flexible when they ask for help.
- 12.2 The State has put in much effort to provide well-run healthcare facilities staffed with well-trained staff and professionals. The healthcare service is supported by a myriad of social support schemes that offer support healthcare services as well as financial aid to those in need.
- 12.3 The 3M model³ in healthcare financing is a model that helps people to make choices on their treatment, management of care and payment schemes. No one in need of urgent healthcare is left without though there are options in treatment choices based on level of affordability.

1

http://www.populationaction.org/Press_Room/Press_Releases/Study_Ranks_Women's_Reproductive_Health_Worldwide_andndash;_U.S._Ranks_15th_Among_25_Low_Risk_Countries;_Africa's_Women_Still_Most.shtml The PAI study, *A World of Difference: Sexual and Reproductive Health & Risks* ranked 91 developing and 42 developed countries representing 95 percent of the world's population on a Reproductive Risk Index and placed them in one of five risk categories: *Very High, High, Moderate, Low* and *Very Low*. The 10 indicators used in the Index are births to teens and women, contraceptive use, male and female HIV/AIDS prevalence, access to skilled care in pregnancy and childbirth, deaths during pregnancy and childbirth, abortion policies, and anemia in pregnant women.

² http://www.wpro.who.int/media_centre/press_releases/pr_20000602.htm MMR reflects a woman's basic health status and the quality of care that she receives. The MMR for Australia, New Zealand and Japan are 3, 5 and 6 per 100,000 live births respectively, compared to Singapore at 4 per 100,000 births

³ Singapore's Third Periodic Report to the UN Cedaw Committee; Section 12.11

CRITICAL AREAS OF CONCERN

Reproductive Health

- 12.4 The number of Caesarean deliveries has been increasing every year.⁴ The number of hemorrhages, complications and abortive outcomes of pregnancy outnumber deliveries in completely normal cases.⁵ The increasing number of Caesarian operations also means running the risk, though still relatively low in Singapore, of higher maternal morbidity in terms of anesthetic and surgical risk (risks (e.g., the risk of bladder injury is 0.1% compared with 0.003% for normal delivery); greater risks in future pregnancies (e.g., the risk of placenta previa - a condition in which the placenta covers the entrance to the womb- in a future pregnancy is 0.7% compared with 0.5% for normal delivery) and increased costs (e.g. \$1,970 to \$4,029 for normal deliveries (without complications) versus \$4,331 to \$6,381 for Caesarean deliveries (without complications)).⁶ There are cases of women opting to choose a Caesarian operation to keep up with their schedules to time the births. There must be greater protection and education in this area so that both physicians and parents-to-be do not take such unnecessary risks wherever possible.
- 12.5 Miscarriages and infertility incidents will increase as Singaporean women delay marriage and pregnancies. Miscarriages increased from 3,930 in 1993 to 4,574 in 2003⁷ while over 400 women seek fertility treatment every year – 408 in 2003, 400 in 2004 and 484 in 2005.⁸ There is a need to look into these trends and work towards being preventive. Women seeking fertility treatment have to take time off work and flexibility around work is still an issue (see Article 11). Currently there are no special provisions for women seeking fertility treatment in the Employment Act or Workplace Safety and Health Act.⁹

Mental Health

- 12.6 Women's mental health issues are unique and include prenatal psychiatric disorders, affective and anxiety disorders, addictions, stress-related or trauma-related disorders, eating disorders. There is a lack of data or reduced access to

⁴ <http://www.moh.gov.sg/mohcorp/publicationsinfopapers.aspx?id=2952> Between 2001 and 2003, 69.5% (or 83,996) were normal deliveries while 30.5% (or 36,792) were Caesarean deliveries, with the Caesarean Section rate being higher in the private hospitals (average 35.3%) compared to the public hospitals (average 25.1%). This is high compared to other developed countries: UK – Wales 24.2%, Ireland 23.9%, England 21.3%, (2001); Denmark 17.6% (2002); Finland 16.1% (2002) and Australia 21.6 (2001).

⁵ <http://www.moh.gov.sg/mohcorp/statistics.aspx?id=4464>

⁶ [http://www.moh.gov.sg/mohcorp/uploadedFiles/Publications/Information Papers/2004/Deliveries in Singapore Paper.pdf](http://www.moh.gov.sg/mohcorp/uploadedFiles/Publications/Information%20Papers/2004/Deliveries%20in%20Singapore%20Paper.pdf)

⁷ http://www.ipss.go.jp/webj-ad/WebJournal.files/population/2005_6/thang.pdf

(The Japanese Journal of Population, Vol. 3, No. 1, June 2005)

⁸ <http://www.moh.gov.sg/mohcorp/statistics.aspx?id=4464#10>

⁹ [http://www.mom.gov.sg/publish/momportal/en/legislation/Occupational Safety and Health/workplace_safety_and.html](http://www.mom.gov.sg/publish/momportal/en/legislation/Occupational_Safety_and_Health/workplace_safety_and.html)

gender disaggregated data on women's mental health in terms of the illnesses that girls and women are seeking treatment at the Institute of Mental Health. Sharing such data with the community is crucial to put in place relevant support services and intervention programmes for the sufferer, her partner and her family. This is an area of concern as there are more than 10,000 cases per year and there is no gender breakdown or even by incident rates for each mentally ill condition¹⁰. It is an area that needs to be discussed more openly.

Occupational Health

12.7 Caregivers and nurses do run the risk of back injuries from lifting and transferring patients, and bed-making. In the USA, the Bureau of Labor Statistics documented that nursing topped the list of occupation as most associated with work-related musculoskeletal disorders in 1998.¹¹ There are 19,329 nurses in the Singapore Nursing Board register comprising registered nurses (73.3%), enrolled nurses (24.8%) and registered midwives (1.9%). They are primarily female and exclude healthcare assistants who assist nurses in non-nursing work.¹² The Workplace Safety and Health Act 2006 (WSHA) make generic provisions for the duties of the employer to provide a safe working environment. But there are no specific definitions and coverage with regards to the healthcare and hospitality industry - "Lift", "lifting gear" and "lifting machine" do not encompass the range of lifting technology used in healthcare. Clause 11 of the Private Hospitals and Medical Clinics Act (PHMCA) has charged a "quality assurance committee" to ensure patient safety but not occupational safety. In Clause No. 14, there are specifics on "directions as to the apparatus, appliance and equipment", in terms of negligence in not providing properly functioning gadgets but the Act does not cover consequences of safety measures and precautions to reduce the risks of healthcare workers, e.g. use of hoists and lifts to move patients so as to prevent back injury in the worker.

Older Women and Healthcare Financing

12.8 Men and women in Singapore have similar prevalence for common chronic diseases such as hypertension and diabetes. But older women as compared to men have higher incidence of certain disabling diseases such as arthritis – a frequently disabling condition. Arthritis is far more common for women than for men. There are about twice as many semi-ambulant (2.02) and non-ambulant females (1.99) as there are semi-ambulant / non-ambulant males. Thus, although women live longer, they tend to be in worse physical condition than their male counterparts, live with greater level of disability and functional dependence for a longer period of their life. This may be exacerbated in part by the lack of financial resources.¹³

¹⁰ <http://www.moh.gov.sg/mohcorp/statistics.aspx?id=4464#5>

¹¹ <http://www.spineuniverse.com/displayarticle.php/article1509.html>

¹² Ibid.

¹³ Beyond Youth: Women Growing Older and Poorer; An AWARE-TSAO Position Paper; Feb 2005

- 12.9 Older women depend heavily on their family to pay for their acute care, with 65% being dependent on their children's Medisave, and only 6.9% on their own Medisave. This is a significant issue for older women as grown children in the sandwich generation need to provide for their own children, their own needs and in some instances, caring for the parents of the spouse too. With disability it also means that the older person runs the risk of paying for long-term care, out of pocket, with varying levels of government/non-profit subsidies.¹⁴
- 12.10 There is a feminization of elderly care-giving in the traditional Asian household with the women in a household taking care of the ailing elderly folk, placing a lot of pressure on the younger females in the households, whose career aspirations can be disadvantaged.
- 12.11 In the AWARE-TSAO report only 21 per cent of semi-ambulant women lived with spouses, as did 20 per cent of non-ambulant. Among semi-ambulant women, 10.5% did not own their premises; it was 1.3% for the non-ambulant. This lack of home ownership could pose a problem. The chances of female widowed elderly, certainly the disabled (semi and non-ambulant), living with working children are higher than for males, increasing with disability incidence. Thus elderly women are doubly jeopardized: widowhood and increasing disability. At the worst, old age homes for the disabled may be the last refuge for women and men during chronic illness requiring long term care and medical interventions. There is an over-reliance on the family to look after the older woman or man and there is a real worry about the older women who have no money at all or very little to sustain their long illnesses.

HIV and Aids

- 12.12 Married women comprise about two thirds of all women with HIV¹⁵ and most of them (four out of five) of the women were infected by their husbands who were their first and only sexual partners. Most of the women were homemakers. The ratio is about eight males with HIV to 1 female¹⁶. While the State has taken important steps to protect the unborn child it is a case of people with HIV being dependent on goodwill to subsidise their access to treatment and the women with HIV also face the same problem.
- 12.13 Foreign women are usually discovered to be HIV when they submit applications for long-term visit passes, permanent residency, during antenatal screening or to renew work permits. If they are found to be positive then they are more often than not, repatriated. But if they are married to Singaporeans they can stay on but treatment costs will be higher as their treatment costs can be pegged to the private rates.

¹⁴Ibid; It is noted that while Singapore spends about 3% (with public sector spending pegged at about 1%), other Asian countries at a comparable rate of development as Singapore and with similar demographic profile e.g. Taiwan and Korea, spends between 5 - 7% of their GDP on health. The amount of public spending on health care should be increased to provide for the fast ageing population.

¹⁵ <http://www.moh.gov.sg/mohcorp/currentissues.aspx?id=16114>

¹⁶ Ibid

- 12.14 Besides cost issues it is imperative that the education reaches all women – homemakers, students and foreign women – so that we get the message of safe sex and choices to the public, rather than a message of abstinence.

Other Health Issues

- 12.15 The Singapore Heart Foundation did a telephone survey of 1,000 women aged 35 to 49 between June and August in 2006. Most of these women did not know that heart diseases and stroke are the top causes of death among members of their gender group and were also unable to name the major risk factors of these killer illnesses.¹⁷ Yet Ischemic heart diseases, cerebrovascular diseases (including stroke) and other heart diseases are ranked among the top 10 causes of death¹⁸ in Singapore as well as the most common reason for hospitalization. And among the 12 neoplasm (cancer-related) statistics published by Ministry of Health, breast, lung, colorectal and cervical cancer are the most common among women.
- 12.16 Singapore is thriving to be a major Medical Science hub and it is not abundantly clear how the funds for research are allocated with respect to understanding the ailments that women and men suffer from, as indicated by admissions figures into hospitals and by fatalities. There is a need to monitor how women are coping financially with the high treatment costs for cancers and a study to ensure that women are not forgoing treatment opportunities as they have too little in the kitty for themselves and have to rely on their children¹⁹ – this a real concern when one studies the figures for hospital admissions by men and women, the hospital bill size reflecting the costs of treatment and juxtapose these against the funds at the disposal of women.²⁰

RECOMMENDATIONS

- 12.17 There is an urgent need to form an Inter-Ministerial Task Force to look into the issue of Mental Health so that we can understand the problems to look for solutions at the root-cause level. There is concern over the undue stress that women go through as their balancing act involves being a nurturer across generations, beefing up the income for the family if not being the main provider and coping with traditional mind-sets in the home, at the workplace and through some inadequate policies at the national level. The Ministry of Community Development Youth and Sports through its Women's Desk did organize six workgroups of which one looked at Women and Health. More such focused initiatives are needed with further dialogues on the recommendations.

¹⁷ http://health.asiaone.com.sg/womensmatter/20070202_001.html

¹⁸ <http://www.moh.gov.sg/mohcorp/statistics.aspx?id=5526>

¹⁹ Healthcare Financing for the Ageing Population in Singapore, Policy Implications for South East Asia by Phua Kai Hong as cited in the Aware-Tsao Report. See Appendix 12.1.

²⁰ Ibid; The Top Three Illnesses and the Associated Bill Sizes. See Appendix 12.1.

- 12.18 There should be more precise provisions through legislation for employee health and safety issues and proper implementation processes. Through the Workplace Safety and Health Act 2006²¹ it is important to legislate the duty of care on employers and personal responsibility with employees.
- 12.19 The current acute care mechanism needs to be strengthened to provide adequate financial protection for those who do not have a significant formal employment history and savings in their Medisave account (e.g. homemakers). This can be done by beefing up the Medishield / Medishield supplement at affordable premiums, and either mandate or use incentives on the family to purchase Medishield / Medishield supplemental insurance for the homemaker and other relatives not in formal employment. The Eldershield, as a severe disability scheme, cannot be seen as a substitute for long term care insurance and with more women outliving men and being vulnerable to life-long disabling illnesses, there needs to be another insurance scheme to enable the elderly ill to meet their healthcare costs without them feeling that they are burdens to the family or are dependent on goodwill through the charity dollar.
- 12.20 There is an urgent need to review housing policies to introduce greater flexibility for an ageing population to downgrade to smaller units and so use the cash payouts to maintain themselves. This flexibility must also extend to a concept of communal and yet independent living housing projects that are too few and too costly for the average person who is growing older.²²
- 12.21 The sexuality education discussions need to include gender quality and gendered positions of power. This approach will complement current practices of raising awareness to Sexually Transmitted Diseases and HIV through talks and visuals.
- 12.22 There is a need to co-ordinate the support programmes for women with HIV who outlive their spouses but not their children. These efforts on the ground can be harnessed through a well-coordinated programme. More drugs need to be re-classified as non-standard items for People Living with HIV so that treatment remains affordable to them and they can add longevity to their lives. The high treatment costs affect women in the lower-income group whose husbands have HIV and have limited access to treatment and use much of their savings on treatment, leaving limited resources for the family they leave behind.

²¹ http://statutes.agc.gov.sg/non_version/cgi-bin/cgi_legdisp.pl?actno=2006-ACT-7-N&date=20060315&method=whole&doctitle. See Appendix 12.2.

²² Beyond Youth: Women Growing Older and Poorer; An AWARE-TSAO Position Paper; Feb 2005

Article 16

ARTICLE 16

MARRIAGE AND FAMILY LIFE

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

- a) The same right to enter into marriage;*
- b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;*
- c) The same rights and responsibilities during marriage and at its dissolution;*
- d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;*
- e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;*
- f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;*
- g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;*
- h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.*

2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

16.1 Singapore has made a blanket reservation on Article 16(1) and 16(2) citing the need to continue to guarantee the freedom of minorities to practise their personal and religious laws under Article 152 of the Constitution¹. AWARE argues that this blanket reservation should be removed. If the basic intention is to protect the personal and religious laws of Singapore's Muslim minority, the reservation should be partial and restricted to Article 16 (1) (a) and (c) only.

16.2 Despite certain provisions in the Administration of Muslim Law Act (ADMLA)², by and large, Muslim women enjoy the same rights and status and are subject to

¹ See Appendix 16.1.

² See Appendix 16.2.

the same obligations as other non-Muslims (both male and female). Singapore's 2001 CEDAW Representative made this statement.³

Same rights to enter marriage

16.3 Singapore has legislation in place which protects women in marriage and family life. Both non-Muslim men and women have the same rights to enter into marriage under the Women's Charter and section 4 of the Charter⁴ makes polygamy illegal for all non-Muslims.

Guardian

16.4 However, under section 95 of ADMLA, Muslim women require the consent of a marriage guardian (wali - usually father or male next of kin)⁵ to contract a valid marriage. If the guardian refuses for no good or valid reason, the Registrar of Muslim Marriages will be appointed as Wali Hakam⁶ for and on behalf of the said woman.

16.5 AWARE believes that the requirement of wali for Muslim women should be abolished since it violates a woman's emotional autonomy. The wali concept still serves to ensure patriarchal control of a woman's choice and implicitly supports the idea that women do not know what is best for them.

16.6 Juristic schools have differed on the right of women to enter into marriage contracts without a guardian's consent. Some allowed it and some did not. Given this leeway in Islamic legislation, Singapore's reservation on the basis that the absence of guardianship would be in contradiction to Islamic legislation is not an accurate postulate.

16.7 Within the Maliki, Shafie and Hanbali schools⁷ of thought, wali is a precondition for a valid marriage contract. They believe that a maiden, divorced or widowed

³ CEDAW 25th Session, 522nd Meeting, July 2001, see press release: <http://www.un.org/News/Press/docs/2001/WOM1293.doc.htm>.

⁴ See Appendix 16.3.

⁵ Defined under section 2 of the ADMLA as "the lawful guardian according to Muslim law for purposes of marriage of a woman who is to be married". See Appendix 16.2

⁶ A Wali Hakam is someone who has been selected by a marriage party to represent him or her under the direction of the judge.

⁷ United Nations Development Fund for Women (UNIFEM) 1999, Report of the Round Table Workshop: CEDAW and Islam and the Human Rights of Women, www.arabwomenconnect.org/docs/ASRO_HR_round_report.doc.

woman is not entitled either to get married or marry someone else by delegation, or to delegate anyone other than her husband in marriage, otherwise the marriage would be invalid. They rely on Surah Al Nur 24:32⁸. “Marry those among you who are single”, which was addressed to guardians and is understood to indicate guardianship in marriage. “When you divorce women and they fulfill the term of their eddah, do not prevent them from marrying their former husbands.”

- 16.8 Surah Al Baqarah 2:232⁹ is another verse which was used to show that if a guardian did not have the right to guardianship in marriage, there would have been no reason for forbidding “prevention from marriage” in the first place.
- 16.9 However, the Hanafi school¹⁰ of thought does not make marriage conditional to guardianship. They believe that a woman has the right to get married without her guardian’s authorization, and that her marriage is valid if it is contracted with a capacitated person. They cite Surah Al Baqarah 2:230 and 2:232 “So if a husband divorces his wife (irrevocably) he cannot after that re-marry her until she has married another husband and he has divorced her.” Marriage in both verses was ascribed to the woman herself, which proves that marriage contracted by the woman herself is valid. Forbidding “prevention from marriage” in the second verse is related to prevention from marriage by force and not to marriage through guardianship.
- 16.10 Scholars such as Professor Asghar Ali Engineer¹¹ hold the view that the Koran does not call for a wali for a woman to marry. To him, the concept of wali is a culturally mediated concept, which developed at a time when Muslims lived in patriarchal societies where men dominated everything. He says that in Islam, women have complete freedom to marry when they are mature enough to do so and are free to contract their own marriages.

⁸ “Marry the single people among you and the righteous slaves and slave-girls. If you are poor, God will make you rich through His favor; He is Bountiful and All-knowing.”

⁹ “When ye divorce women, and they fulfil the term of their (Iddat), do not prevent them from marrying their (former) husbands, if they mutually agree on equitable terms. This instruction is for all amongst you, who believe in Allah and the Last Day. That is (the course making for) most virtue and purity amongst you and Allah knows and ye know not.”

¹⁰ The Hanafi School of Thought is named after the Muslim jurist, Imam abu Hanifa, who had two followers, Abu Yusuf and Mohammed. The Hanafi School of Thought is based on the verdicts, legal thought and analysis of all three of these scholars and is believed to be the most liberal in its interpretation of the Qur’an and Sunnah.

¹¹ Dr. Asghar Ali Engineer is a noted Islamic Scholar who has been trained in *tafsir* (commentary on Quran) and hadith (Prophet's sayings) and Islamic jurisprudence. He has more than 40 books to his credit. Some of the titles are: The Origin and Development of Islam, Islam and Its Relevance to Our Age, The Islamic State, Rights of Women in Islam, Sufism and Communal Harmony, Islam in South and South East Asia

- 16.11 In some countries, there is no requirement for consent of wali for Muslim women to enter into marriage. In Turkey, Fiji and Senegal, no wali is required by law¹². Morocco's newly reformed Family Code no longer requires women to need permission from their fathers to marry¹³.
- 16.12 Pakistan also does not require wali. In the case of Saima Waheed and Humaira Butt¹⁴, the Courts upheld that as an adult Muslim woman, Saima did not require her wali's permission to get married.
- 16.13 There are other options to having a blanket requirement for a wali's consent. In Morocco, adult women are approaching courts to claim they have no father to act as their wali, and courts have been permitting these women to contract their own marriages or to choose their own walis. While this offers a way out for Muslim women, why do orphaned women have far greater capacity than other women? In any event, the reformed Family Code now makes it unnecessary for women to need permission from their fathers to marry. Under the new Mudawana¹⁵, a woman over 18 may be her own wali (the minimum age of marriage has been raised from 15 to 18 in Morocco¹⁶).
- 16.14 In Sudan, the court will appoint a wali for a virgin and he can be an unrelated man¹⁷. In Tunisia, wali is optional¹⁸.
- 16.15 While Singaporean law is less restrictive as it allows women¹⁹ to approach the court when her wali withholds his permission on "unreasonable" grounds (a

¹² Sisters in Islam Forum of Malaysia [Online], "Best practices on family law issues", <http://www.sistersinislam.org.my/baraza/best%20practise.htm>

¹³ Friends of Morocco [Online]. "Morocco Week in Review", 31 January 2004, <http://www.friendsofmorocco.org/2004News/Jan04/0131News.htm>.

¹⁴ See Appendix 16.4.

¹⁵ Mudawana is a Moroccan family code introduced in February 2004 by King Mohammed VI. The Mudawana was pushed through the Moroccan parliament and has granted women more power and has given a positive enhancement for women's rights in Morocco.

¹⁶ The Moroccan Family Code (Moudawana) of February 5, 2004, Human Rights Education Associates Online, <http://www.hrea.org/moudawana.html>

¹⁷ Emory University School of Law [Online], Legal profiles – Sudan, <http://www.law.emory.edu/IFL/legal/sudan.htm>.

¹⁸ Sisters in Islam Forum of Malaysia [Online], "Best practices on family law issues", <http://www.sistersinislam.org.my/baraza/best%20practise.htm>. See under footnote 12 earlier.

¹⁹ Section 95(3) Administration of Muslim Law Act (ADMLA). See Appendix 16.2

decision which is appealable to the Appeal Board), the burden of proving that his decision was “unreasonable” lies with the woman. To this end, the wali requirement puts women at a comparative disadvantage with men. AWARE sees no necessity for this wali compliance.

Polygamy

16.16 In Singapore, Muslim men are allowed to enter into polygamous marriages subject to certain conditions:

- (a) he is financially capable of maintaining the first and subsequent wives and more than one family;
- (b) he has the ability to treat both wives and families equally and fairly, and
- (c) there must be some lawful benefit involved in the second or subsequent marriage.

16.17 In Singapore, case law has allowed polygamous marriages on grounds such as: a wife’s failure to conceive (whether or not medically the fault lay with her), a wife’s failure to produce male children, a wife’s long-term illnesses. However, similar complaints about a husband are not regarded as acceptable grounds for divorce.

16.18 In some Muslim countries, polygamy is banned altogether. In other Muslim countries, the laws are less option-giving as they do not have codified procedures or clear mechanisms for relief for first and subsequent wives. The Singapore system is a “middle ground” as it makes polygamy conditional upon a formal procedure for permission and specifies the grounds for permission. The system is thus not as oppressive as the laws and practices in some other countries.

16.19 According to the Minister in charge of Muslim Affairs, from 1999 to 2003, there were 340 applications for polygamous marriages amongst Muslims. Of these, 109 were approved (32%)²⁰.

16.20 Statistics show that the number of polygamous marriages constitutes only 1% or so of the total number of marriages solemnized²¹. Given the small number, AWARE believes that there should be changes as it is not even a commonly held practice²² and that changes in the laws allowing polygamy should be discussed

²⁰Response to question in Parliament, 21 November 2004, Hansard Volume 78. See also US Department of State Annual Report on International Religious Freedom for 2005 - Singapore (8 November 2005, US Department of State Religious Freedom Reports, www.state.gov/g/drl/rls/irf/2005/51529.htm).

²¹ Figures have been shared at Closed Door discussions. And the numbers are small.

²² The State has very often used the sentiments of the majority to keep laws in place or not to change the laws. This has happened in discussions with regards to decriminalising acts of homosexuality and the argument is that the majority will feel uncomfortable with such a ‘liberal’ approach. In this case polygamy seems to be unfamiliar territory with the majority. A discussion with the community will be enlightening.

amongst the community. The first option is to ban polygamy altogether. Arguments to support this say that the practice of polygamy in modern society has no benefit and only causes harm to women. Proponents of this point of view say that Koranic verses used to justify polygamy have been misunderstood as the intention was to protect women and orphans arising from a war situation which left many destitute women and children. They also say that the Koran also restricted the then-existing practice of unlimited polygamy and reluctantly tolerated a limited and conditional form of polygamy with the ultimate intention of putting an end to the practice.

- 16.21 Some schools of thoughts believe that the Koranic verse that authorized polygamy was negated when its justness was brought into question. The validity of polygamy is thus linked to a feeling of assuredness that as a system it is just. Since living experience over centuries had proven that polygamy is imbued with injustice, the Koranic verse in its formulation may be interpreted as prohibiting polygamy. The relevant passage in the Koran states as follows: *And if you fear that you cannot act equitably towards orphans, then marry as seem good to you, two and three and four; but if you fear that you will not do justice between them then marry only one or what your right hand possesses (i.e. females taken as prisoners of war). This is more proper that you shall not deviate from the right course: Surah An Nisa.* It is argued that the condition laid down about “doing justice between the wives” makes polygamy impossible. Justice does not consist of giving the wives an equal share of the material wealth of a man, but an equal share of affection too. It is not possible that a man can show the same degree of affection to more than one woman. Since he cannot, there cannot be justice between them. The other alternative therefore, in order to please God, is monogamy and consistent with the Koranic phrase, “this is more proper that you may not deviate from the right course”.
- 16.22 This was the interpretation in Tunisia as well as of a large number of eminent scholars (such as Mohamed Abdo)²³. The ban on polygamy is based on an interpretation of Muslim laws inspired by Koranic verses stating that it is impossible to treat wives equitably. Accordingly, Islamic law does not go against a prohibition of polygamy. On the contrary, it tends to call for a temporary prohibition which can only be resumed when proof of justness can be established, e.g. when the Prophet forbade Ali (his son-in-law) from marrying a second wife because his first wife (the Prophet’s daughter) would be hurt.
- 16.23 Dr Hamdi Murad ²⁴is of the view that polygamy was allowed by Islam as a resolution to a problem and when legislation institutes a given solution which is misapplied, the said solution turns into a problem. It is true that Islam allowed

²³ Mohammed Abdo: the name of an Islamic reformist of the 20th Century.

²⁴ Dr Hamdi Murad: is a Director of General Muslim Alms Fund Ministry of Religious Affairs in Jordan.

polygamy but it did not make it obligatory; on the contrary, it allowed it in cases of necessity. Moreover, it transpires from the Koranic verse that it is subject to various controls which must be respected.

- 16.24 There is an outright ban on polygamy in Fiji, Indonesia for civil servants, Tunisia, Turkey and Uzbekistan²⁵.
- 16.25 However, if banning polygamy is not possible, as such a drastic change could not be effected immediately, some groups argue that it is necessary to proceed to reform the practice of polygamy to curb its more blatant injustices. The Prophet did not take on a second wife during the lifetime of his first wife, Siti Khadijah. The reformed Family Code of Morocco²⁶ now bans polygamy unless authorized by the first wife and a judge.
- 16.26 One suggestion is to have stiff penalties imposed on husbands who contract polygamous marriages without the required permission of the first wife. This is of some significance in Singapore as some men contract polygamous marriages outside the jurisdiction. There are Singaporean men taking second wives (either Singaporean or foreign) in Indonesia, Southern Thailand, etc. (see Articles 6 and 11 for further discussion). AWARE would like to urge that stiffer penalties be imposed on husbands so as to protect both existing wives and the second wives.
- 16.27 There should also be public education so that couples are made aware that polygamy is not a male right, giving husbands opportunities to take advantage of their wives with threats of polygamy. The mere threat of polygamy where men can access unilateral divorce can be used to control a wife and limit her ability to assert her rights within the relationship. This cannot be condoned.
- 16.28 Wives should have the right to refuse the husband taking on another wife. If wives cannot accept the situation, then a Muslim woman should be allowed to leave her marriage if her husband contracts another marriage.
- 16.29 The solution lies in having “negotiated” conditions in the marriage contract. In Egypt, Iran and Morocco, many women include a provision that restricts the husband’s ability to take an additional wife in their marriage contracts²⁷ (see below, Negotiated rights in marriage contract from para 16.53).

²⁵ Department of Justice Canada Research Report: Polygamy and Canada’s Obligations under International Human Rights Law, September 2006, <http://www.justicecanada.ca/en/dept/pub/poly/chap5.html>

²⁶ See Appendix 16.5.

²⁷ The Principle [Online]. *Malaysian Muslim women get tough on polygamy*, 18 January 2003, <http://www.polygamyinfo.com/intnalmedia%20plyg%20169india.htm>

16.30 AWARE appreciates that calling for a ban on polygamy can be too drastic a change but the argument to keep recognizing polygamy gets weaker with each passing year. Defenders of polygamy will argue persuasively that in some instances, polygamous unions do confer benefits to first wives, e.g. protection to them. However, Singapore can mitigate against the injustice caused by polygamy by enabling and allowing women who cannot live in polygamous marriage to be given the choice to leave that marriage.

16.31 Sakinah Bt Hussein (great-granddaughter of Ali and Fatimah, the Prophet's daughter), put various conditions in her marriage contract including the condition that her husband would have no right to take another wife during their marriage²⁸.

Right to choose spouse and enter into marriage with free and full consent

16.32 Both non-Muslim and Muslim men and women have this right.

16.33 Unlike some other countries, in Singapore, a Muslim women's consent is required to enter into marriages, as she has to sign the marriage register and the marriage document, thus signifying her consent. This requirement eliminates women being forced into marriages through the concept of *ijbar* (father or grandfather can make her marry someone of their choice under the guise that it is in the bride's best interest) which is practised in some countries.

16.34 The Administration of Muslim Law Act in Singapore does not force a widowed woman to marry her deceased husband's brother or lose her inheritance rights (as in some other countries).

Foreign workers

16.35 Under the Employment of Foreign Workers Act²⁹, a foreign worker is not allowed to marry "a Singaporean Citizen or Permanent Resident in or outside Singapore, without the prior approval of the Controller, while he/she holds a Work Permit, and also after his/her Work permit has expired or has been cancelled or revoked".

²⁸ Women's Aid Organisation [Online]. *Monogamy, my choice*, Campaign, 16 March 2003, <http://www.wao.org.my/news/20030103monogamy.htm>

²⁹ Employment of Foreign Workers Act (Chapter 91A), Fourth Schedule (9) on Conditions of Work Permit/Visit Pass for Foreign Worker. Each FDW is issued a two-year work permit which is renewable as long as the FDW is medically fit and has not contravened work permit conditions. FDWs must be medical screened every six months for venereal diseases, HIV infection, and pregnancy. Work Permit Conditions stipulate that workers must not: become pregnant or deliver any child in Singapore; apply to marry or marry a citizen or permanent resident of Singapore; and / or engage in any illegal, immoral, or undesirable activities, including breaking up families in Singapore. Work permits are cancelled and the FDW is repatriated upon violation of any of these conditions.

- 16.36 In addition, a female foreign worker “shall not become pregnant or deliver any child in Singapore during the validity of her Work Permit/Visit pass, unless she is a Work permit holder who is already married to a Singapore Citizen or Permanent Resident with the approval of the Controller”. This condition applies even after the work permit has expired, been cancelled or revoked³⁰.
- 16.37 The Singapore Government has claimed that these restrictions have been put in place “to discourage a large pool of unskilled or lower skilled migrant workers from sinking roots in Singapore. Given Singapore’s small size and limited resources, we are unable to support the long-term retention of a large and growing pool of foreign workers when their employment has ceased”³¹.
- 16.38 These restrictions are in contravention of international human rights that protect the rights of individuals to enter into marriage and reproduce freely. Indeed, the Human Rights Watch organisation claims that the policies “codify stereotypes that employers often hold about domestic workers being promiscuous and the biased rationales they use to justify restricting domestic workers’ freedom of movement”³². AWARE believes that these policies are also in contravention of Article 16 (1) (b) and calls on the Government to remove such restrictions. See Article 6 and Article 11.13-15 for further discussion of issues relating to foreign workers.

Rights and responsibilities during marriage and divorce

- 16.39 Both non-Muslim men and women have the same rights and responsibilities during marriage. Section 46(1) of the Women’s Charter states:
 “Upon solemnization of marriage, the husband and the wife shall be mutually bound to cooperate with each other in safeguarding the interests of the union and in caring and providing for the children.”
 Section 46(4) Women’s Charter states:
 “The husband and the wife shall have equal rights in the running of the matrimonial household.”
- 16.40 At first glance, Muslim men and women do not to have the same rights to divorce as men can simply divorce their wives through uttering the *talaq*³³ while women have to provide grounds for divorce, i.e. divorce by *taklik* or *fasakh*³⁴.

³⁰ Employment of Foreign Workers Act (Chapter 91A), Fourth Schedule (10).

³¹ E-mail correspondence from the Foreign Manpower Management Division, Ministry of Manpower, Singapore to Human Rights Watch, November 11, 2005, quote included in report “Maid to Order”.

³² Human Rights Watch report: “Maid to Order: Ending Abuses against Migrant Domestic Workers in Singapore” published 7 December 2005 <http://hrw.org/reports/2005/singapore1205/>.

³³ ADMLA section 49. See Appendix 16.2

16.41 ADMLA allows both Muslim men and women to seek divorce. Contrary to popular belief, divorce is not the right and entitlement of only men/husbands, nor is the husband's right to divorce exclusively his³⁵. Third parties are allowed to exercise the husband's right to divorce, e.g. the husband's appointed arbitrator (*hakam*) is empowered to utter the *talaq* on the husband's behalf if he refuses to do so in circumstances which the Judge deems just and fit.

16.42 Muslim women also have rights to divorce (albeit not the right of *talaq*). The court may grant a woman a divorce. Women/wives are entitled to seek divorce on grounds of:

- breach of *taklik* (marriage conditions), or
- *fasakh*, e.g. husband's impotency, insanity, imprisonment, unfair treatment of wives if there are polygamous unions, etc, or
- *kholok* (redemption).

16.43 Although both men and women have the right to divorce, women are required to prove a ground – *fasakh*³⁶ or breach of *taklik*³⁷. Men need not. They only have to utter the *talaq* but they will be ordered to pay *Mutaah*³⁸ and *Nafkah Eddah*³⁹. The *talaq* uttered by the husband requires notification and registration with the Syariah Court.

16.44 Singapore allows the *talaq* pronounced by the husband to be revocable or irrevocable. There is case law confirming the husband's unilateral right to revoke the *talaq* within the *edda* period. The wife's consent is not required.

16.45 Malaysia does not recognize unilateral revocation and explicitly states that the court cannot force a wife to return to her husband. Such a provision certainly

³⁴ ADMLA section 48. See Appendix 16.2

³⁵ Muslim Women's League [Online], *An Islamic Perspective on Divorce*, <http://www.mwusa.org/publications/positionpapers/divorce.html>

³⁶ ADMLA section 49. See Appendix 16.2

³⁷ ADMLA section 48. See Appendix 16.2

³⁸ *Mutaah Eddah*: A wife is entitled to receive a compensation- which is a one-off payment to the wife by the husband. This is granted especially if she is divorced without just cause.

³⁹ *Nafkah Eddah*: is maintenance to be paid by the husband for a period of 3 months and 10 days after the divorce. If the wife is pregnant by the husband, the "Nafkah eddah" is for the duration of the pregnancy. However, this will be withdrawn if she is living in adultery during this *edda* period.

gives more options to women. AWARE believes that Singapore should have similar legislation.

- 16.46 AWARE believes that if a marriage is a contract (as it is in Islam), then both parties should have equal rights of divorce. A unilateral right of divorce (belonging to the husband alone) is not in keeping with the concept of a contract where an agreement is entered into by both parties with equal bargaining power.
- 16.47 AWARE proposes that to give women a better bargaining position and to make it more egalitarian, Muslim women should have the general delegated right of divorce (talaq tafwid) incorporated into the marriage contract.
- 16.48 Talaq tafwid is the delegation by a husband of his power of talaq to his wife, unconditionally or conditionally⁴⁰. Usually a husband delegates this power through a negotiated clause in the marriage contract, but he can delegate it to the wife at any time during the marriage. It is incorrect to say that a husband loses his own power of talaq if he does this. Although talaq tafwid is dependent upon the husband agreeing to delegate his right, once delegated, it cannot be taken back. If the delegation is unconditional, the wife is given effectively the same rights to divorce as her husband. Unconditional talaq tafwid has the effect of giving women the same authority and power that men have to terminate their marriages. Thus talaq tafwid frees women from the need to establish grounds for divorce.
- 16.49 Talaq tafwid can also be granted as a means of enforcing specific stipulations in a marriage contract. In such cases, the wife is given the power to exercise talaq tafwid if the husband breaks a condition in the marriage contract. She will have to go to court to demonstrate that a condition or a promise in her marriage contract has been broken. This form of talaq tafwid is clearly not as successful as an unconditional grant of talaq tafwid. However, it can expand a woman's right to divorce by including grounds that are traditionally not available to women under Muslim law (e.g. husband has refused to allow the wife to work or study).
- 16.50 AWARE urges Singapore to enact laws which explicitly recognize talaq tafwid and include it in the standard marriage contract, e.g. "whether or not the husband has delegated the power of talaq to the wife, and if so under what conditions."
- 16.51 The option of talaq tafwid can serve to partly redress the power imbalance in a marriage. In the absence of legislation and social practices that grant women equity and security in their marriages, talaq tafwid can correct that part of imbalance in marriage that is caused by a husband's power to unilaterally terminate the marriage.

⁴⁰ International Information Programs [Online]. *Progressive Family Laws in Muslim Countries*, August 2005, http://www.usinfo.state.gov/mena/img/assets/4756/121305_muslim_family_laws.pdf.

16.52 The possibility of delegating talaq to the wife is explicitly recognized in the statute laws of Bangladesh, Iraq, Jordan, Morocco, Pakistan and Syria⁴¹.

Negotiated rights in marriage contract

16.53 AWARE suggests that there should be public education so that women can be informed that in the marriage contract, she could add in her own conditions and clauses that may be negotiated and agreed upon by both parties. In Islam, marriage is a contract (akad) and there can be contractual terms agreed by both parties⁴².

16.54 In Bangladesh and Pakistan, the standardized marriage contract has a range of clauses in addition to those concerning requisites⁴³. Unfortunately though, the option-giving nature of these additional clauses is often defeated by the common practice of striking them out.

16.55 In Malaysia, additional conditions may be entered into the taklik document, which is signed separately from the marriage contract. Both contract and taklik are recorded with the Marriage Registrar⁴⁴.

16.56 Iran allows wives to negotiate conditions to marriage contract. The standard marriage contract has room for additional conditions, e.g. unconditional talak tafwid.

16.57 Women in Morocco, Egypt and Pakistan have successfully added conditions to the marriage contract and these conditions can include a prohibition on polygamy.

16.58 Other terms can include:

- the wife having the right to choose to work or right to refuse to relocate if the husband takes a job in another area;
- levels of maintenance;
- place of residence;

⁴¹ Women living under Muslim law [Online]. *Talaq-I-Tafwid: The Muslim Woman's Contractual Access to Divorce*, <http://www.wluml.org/english/pubs/pdf/misc/talaq-i-tafwid-eng.pdf>.

⁴² Wits Law School [Online], *Muslim Personal Law in South Africa*, July 2004, http://www.law.wits.ac.za/sajhr/conference_papers/agherdienpaper.pdf.

⁴³ Global Sisterhood Network [Online], <http://www.global-sisterhood-network.org/content/view/231/76/>

⁴⁴ Women Living Under Muslim Law [Online], *Women and Islam: What are the Missing Terms?*, <http://www.wluml.org/english/pubs/pdf/dossier5-6/D5-6.pdf>.

- employment options;
- educational options;
- access to mobility;
- access to travel;
- division of household responsibilities;
- standards of living;
- breastfeeding options;
- controls of property;
- polygamy restrictions;
- access to divorce, and
- standards of emotional treatment of the wife.

16.59 In Saudi Arabia, a woman can ensure that the couple lives separately from the husband's family. She can also include:

- the right to continue education without the burden of domestic responsibilities;
- a personal driver to ensure mobility;
- that should the husband marry another woman, she shall be granted a divorce and paid a certain amount of money, or be given a separate house for her and her children.

Kholok

16.60 Islam gives men the right to unilateral divorce, in return, it gives women the possibility to seek consensual dissolution of the marriage through *tebus talak (kholok)*⁴⁵. Jurists have understood kholok to mean revocation of marriage, on the women's acceptance of a verbal or implied repudiation, and their authority in the matter is Surah Al Baqarah verse 229⁴⁶ "It is not lawful for you (men) to take back any of your gifts (from your wives), except when both parties fear that they would be unable to keep the limits ordained by Allah. If ye (judges) do indeed fear that they would be unable to keep the limits ordained by Allah, there is no blame on either of them if she gives something for her freedom. These are the limits ordained by Allah so do not transgress them. If any do transgress the limits ordained by Allah, such persons wrong (themselves as well as others)."

16.61 In the Prophet's traditions, it is noted that kholok was applied where the Prophet ordered the husband to forcefully divorce his wife, provided she returned her dowry to him.

⁴⁵ Divorce by redemption.

⁴⁶ "Fa imsakumbi ma'rufin aw tasreehum bi ihsan" - "take back with charity or let them go in charity" (Surah Al-Baqarah, Verse 229).

16.62 Some juristic schools have turned kholok to a consensual contract between husband and wife. Others are of the view that Islamic jurisprudence and some jurists such as Ibni Al Qayyem, Ibni Tayyah and Al Zhaheery_School⁴⁷ consider the kholok as a woman's right, provided she gives back the dowry to the husband, and the husband is obliged to accept that.

16.63 AWARE argues that Kholok must be considered as the woman's right to divorce provided she returns the dowry to her husband. The husband's consent is not required.

Nusyus (“Obedience”)

16.64 Singapore is quite progressive as the concept of obedience⁴⁸ has not been codified like in Malaysia, where a wife's duty to “obey” her husband is legislated and she is liable to a fine for contravention (although this is hardly implemented these days). “Nusyus” can also be a ground for withholding maintenance or a ground for divorce.

16.65 In Singapore, fortunately, it is only a basis for withholding nafkah eddah. Mutaah is still payable even if the court makes a finding that the wife is nusyus. See the case of Haron Bin Mahmoot v Zaiton Bte Amat⁴⁹.

16.66 Upon divorce, section 52(1) to (3) of ADMLA empowers the Court to make orders in respect of:

- payment of emas kawin to the wife;
- payment of consolatory gift (mutaah) to the wife;
- custody of minor children of the parties;
- disposition or division of property.

16.67 On the issue of division of matrimonial assets upon divorce for Muslim couples, the laws do not discriminate against women. Section 52(14) of ADMLA defines matrimonial assets quite widely, while section 52(8)(a) to (m) enumerates the factors the Court shall take into account in the division of matrimonial assets:

- extent of contributions made by each party in money, property or work towards acquiring, improving or maintaining the property;

⁴⁷ United Nations Development Fund for Women (UNIFEM) 1999, Report of the Round Table Workshop: CEDAW and Islam and the Human Rights of Women, www.arabwomenconnect.org/docs/ASRO_HR_round_report.doc. See under footnote 7 earlier.

⁴⁸ Where the wife “unreasonably refuses to obey the lawful wishes and commands of the husband”.

⁴⁹ Syariah Court Summons No. 1791 and Appeal case No. 14/2001.

- any debt owing or obligation incurred or undertaken by either party for their joint benefit or for the benefit of any child of the marriage;
- needs of children of the marriage;
- extent of contributions made by each party to the welfare of the family, including looking after the home or caring for the family or any aged or infirm relative or dependant of other party;
- any agreement between the parties with respect to the ownership and division of the property made in contemplation of divorce;
- any rent-free occupation or other benefits enjoyed by one party in the matrimonial home to the exclusion of the other party;
- the giving of assistance or support by one party to the other party (whether or not of a material kind), including the giving of assistance or support which aids the other party in the carrying on of his or her occupation or business;
- the income, earning capacity, property and other financial resources which each party has or is likely to have in the foreseeable future;
- the standard of living enjoyed by the family before the breakdown of marriage;
- the age of each party and the duration of the marriage;
- any physical or mental disability of either of the parties;
- the value to either of the parties of any benefit (such as a pension) which, by reason of the dissolution or annulment of the marriage, that party will lose the chance of acquiring.

16.68 The above provisions are in pari material with section 112 of the Women's Charter. Hence there are hardly any differences in the rights of Muslim and non-Muslim women on the issue of division of matrimonial assets upon divorce. AWARE sees no necessity for any reservation in this aspect.

Maintenance of wives

16.69 Singapore does not link a wife's rights to maintenance to her "obedience" and does not allow a husband to withhold maintenance if the wife is "disobedient". The question of "disobedience" as grounds for disentitlement to maintenance does not arise. Singapore does not provide for situations where a wife can become disentitled to maintenance during the marriage, e.g. refusing to reside in the same house as her husband; refusing to allow him sexual access; refusing to perform household chores and child-rearing duties.

16.70 The Women's Charter⁵⁰ recognizes a (Muslim) wife's right to past maintenance (arguably limited to three years arrears) and her right to file an application for maintenance while she is living with her husband. It also provides for a reasonably effective enforcement mechanism for non-payment of maintenance which had been ordered.

⁵⁰ Section 69, see Appendix 16.3.

16.71 ADMLA recognizes non-maintenance of the wife as grounds for divorce.

Inheritance

- 16.72 There is gender bias here as a male relative receives a share equal to that of two females when children inherit from parents. The rationale behind a brother receiving double his sister's share is based on the Islamic legal presumption that he has an obligation to provide for her. Bearing in mind that these Koranic verses were revealed in Arabia over 1400 years ago when women had no financial security other than that provided by men, the verses demonstrated the care and respect given to the family unit, and ensured that women's rights continue to be protected. Islam revolutionized women's inheritance rights. Prior to the Koranic injunction, women could not inherit from their relatives and in Arabia, they were objects of inheritance as if they were property to be distributed upon the death of a husband, father or brother. Islam, by giving women rights of inheritance, changed the status of women in an unprecedented fashion⁵¹.
- 16.73 In the Koran, responsibilities and privileges are linked. Whoever has greater privileges, and other advantages, has greater responsibility. Thus the wealthy have more responsibilities than the slave; the prophets have more responsibility than the people. Men have been given this advantage but also the corresponding responsibility because the financial obligations of men in Islam far exceeds those of women.
- 16.74 AWARE submits that these inheritance laws are applicable only in an Islamic-based legal system where a woman would have recourse against a relative who was obliged to provide for her but failed to do so. It is arguable that in the absence of a complete application of Islamic law, where the rights of women will have no teeth, Muslims should turn to the spirit of that law, which is to do justice and find ways to accomplish this goal.
- 16.75 Unfortunately, under the present system, Singapore legislates or codifies the rights of men (on inheritance) without legislating and/or codifying the corresponding obligations/responsibilities of men towards women. This leads to hardship and injustice. The reason for Islamic inheritance laws was to remedy the injustice inflicted on women who could then not inherit and were themselves objects of inheritance. It can be forcefully argued that the application of such laws therefore should not cause injustice.

⁵¹Muslim Women's League [Online], *Islamic Inheritance*,
<http://www.mwusa.org/publications/positionpapers/inheritance.html>.

- 16.76 One suggestion is that some funds from Baitul Mal (Muslim State Treasury) be applied towards providing some form of financial assistance to women in financial need.

It is pertinent to highlight the case of Mohamed Ismail b Ibrahim v Mohd Taha B Ibrahim.⁵² In this case, under his will, the testator Md Ismail left one third of his assets to nurziah, one third to two mosques and the remaining one third to be distributed according to faraid. The Plaintiff (one of the faraid beneficiaries) claimed that the will was in contravention of Islamic law. The Defendant sought the opinion of the Fatwa Committee which ratified the nurziah and confirmed that the will was validly made. The Plaintiff sought the High Court's declaration that the nurziah segment of the will was void since it offended faraid and there was to be no distribution of that portion of the testator's assets. The Plaintiff's application was granted. In this case, the nurziah was interpreted by the Court to have been effective on the death of the testator. The nurziah was nonetheless held to be void as it offended Muslim law in that it was in contravention of the restrictions on distribution of assets – the allocation of the assets to nurziah, the two mosques and the faraid beneficiaries in effect altered the fixed portions of the assets distributable under faraid.

In another case, Shiraz Abidally Husain & Anor v Husain Safdar Abidally,⁵³ the Court of Appeal ruled that there was an agreement amongst the six children of the deceased to divide the two thirds share of their deceased father's estate equally in accordance with their deceased's father Letter of Wishes, after meeting the payments of pecuniary legacies under the deceased's will granting his grandchildren the balance of a third. The said agreement was upheld and the Court of Appeal said that the agreement to equally divide two thirds of the money was not inconsistent with Muslim law. AWARE argues that this case must be confined to the facts as the litigants had agreed to various legal principles as the backdrop for the Judge to determine the issue in dispute, amongst which is (a) the deceased could not dispose of more than one third of his estate by will, (b) a letter of wishes was not binding on the beneficiaries but they could agree to comply with it, (c) the beneficiaries to an estate under Muslim law could agree to vary the apportionment of their shares that were prescribed by Muslim law, and (d) in the absence of any agreement, each of the deceased's sons would receive twice the share of the deceased's daughters out of the two thirds.

It may be argued that the inheritance laws per se are not discriminatory but the "administration" of it is. That being the case, then it is high time that the community seriously look into the issue of finding ways and means of ensuring that the purpose of granting male heirs more share in a deceased Muslim's estate

⁵² [2004] 4 SLR 756.

⁵³ [2007] SGCA 16.

i.e. the obligations of financially looking after the welfare of their female next of kin, is adhered to.

The mechanism (legal and/or otherwise) to ensure that rights of women to seek legal recourse against their male next of kin who have failed to provide for them, must be studied. Mechanisms like the nurziah could be considered. There should be discussion by the community and Muslim scholars on how to regard nurziah, i.e. is it a gift or a bequest which could run counter to the principles of Muslim law concerning inheritance or a device of its own genre?

Ms. Hairani Saban Hardjoe, a lawyer with vast experience in conveyancing matters, opined that the Md Ismail's case signals an urgent need for grassroots Muslims and others to closely scrutinize the application of Muslim inheritance law in the context of ADMLA.⁵⁴ Many valid and significant issues were raised by the learned writer and AWARE urges Majlis Ugama Islam Singapura (MUIS – the Islamic Religious Council of Singapore) as a statutory authority to review the nature and extent of the responsibilities mandated to it and under ADMLA to seriously look into the issues.

- 16.77 It must also not be forgotten that women may receive additional means through a will (wasiyat)⁵⁵. Adopted children cannot inherit except under a will.

Rights and responsibilities as parents, irrespective of marital status

- 16.78 Both non-Muslim and Muslim men and women have the same rights and responsibilities as parents, irrespective of their marital status. The Guardianship of Infants Act applies to both Muslims and non-Muslims, except when divorce proceedings have been commenced by a Muslim party in the Syariah Court.
- 16.79 Section 46 gives equal rights and duties to both husbands and wives in the management of family life and children. Although the law states this, the Government has not specified how it enforces the clause. Women continue to bear more responsibility in housework and child rearing, producing a double burden for working women (see further discussion in Article 11).
- 16.80 Section 69 makes it obligatory for a husband to maintain his wife and children. Singapore's maintenance laws make it a joint/dual obligation for both working mother and father to maintain their children. Muslim women have the same rights

⁵⁴ Law Gazette October 2006 25.

⁵⁵ Muslim Women's League [Online], *Islamic Inheritance*, <http://www.mwusa.org/publications/positionpapers/inheritance.html>.

as non-Muslim women as applications for maintenance are made and heard in the Family Court, not the Syariah Court.

- 16.81 With regards to maintenance of illegitimate children, Muslim women are not discriminated against. Guardians of illegitimate children are allowed to make an application for maintenance of the said children against the natural or biological father regardless of whether the parties are Muslim or not.
- 16.82 Although medical subsidies for male and female civil servants are now the same⁵⁶ and two days' child sick leave for each child is to be extended to fathers⁵⁷, paternity leave has still not been recognised⁵⁸ although maternity leave is now 12 weeks for mothers⁵⁹.
- 16.83 For both non-Muslim and Muslim men and women, in all cases, the interests of the children shall be paramount. The same principle of what is in the best interest of the children applies in Syariah Court proceedings dealing and deciding on custody/access issues.
- 16.84 On the issue of custody, Muslim women are not discriminated against. The law is based on the paramount interests of the children. Children above seven years of age are generally interviewed by the Syariah Court as to their choice of parent with whom they wish to stay upon divorce.

Rights to decide on number and spacing of children

- 16.85 Both non-Muslim and Muslim men and women have the same rights pertaining to their children.

Rights and responsibilities with regards to guardianship and adoption of children

- 16.86 Both non-Muslim and Muslim men and women have the same rights and responsibilities with regards to guardianship and adoption of children. Laws regarding adoption apply to all citizens even if the adopting parents are married

⁵⁶ Statement on Women by Mr Chng Tze Chia, Delegate to the 60th UNGA, 13 October 2005, Ministry of Foreign Affairs [Online], <http://www.mfa.gov.sg/newyork/>.

⁵⁷ Under the Employment Act Chapter 91 section 87A, up to a maximum of 14 days per child over seven years.

⁵⁸ See the answer to FAQ on Ministry of Manpower website <http://ifaq.mom.gov.sg>.

⁵⁹ Under section 76 of the Employment Act Chapter 91.

according to Muslim laws. The Adoption of Children Act⁶⁰ applies to both Muslims and non-Muslims.

Rights to choose profession, name, occupation

16.87 Both non-Muslim and Muslim men and women have the same right to choose a profession, family name and an occupation.

Section 46(2) of the Women’s Charter states:

“The husband and the wife shall have the right separately to engage in any trade or profession or social activities.”

Section 46(3) Women’s Charter states:

“The wife shall have the right to use her own surname and name separately.”

Property rights

16.88 Both non-Muslim and Muslim men and women have the same rights.

16.89 Section 51 of the Women’s Charter enables a married woman to:

- acquire, hold and dispose of any property;
- be capable of rendering herself and being rendered liable in respect of tort, contract, debt or obligation;
- be capable of suing and being sued in her own name;
- subject to bankruptcy laws and enforcement of judgments and orders in all respects as if she were a feme sole.

16.90 Section 52 allows a married woman to hold property as feme sole. Section 60 allows a married woman to act as an executrix or trustee.

16.91 Sections 112 and 113 of the Charter entitle both men and women to a share of matrimonial assets.

16.92 Section 47 recognises a wife’s right to a different domicile from her husband. Sections 64 – 67 enable a battered spouse to gain protection from the perpetrator of violence.

16.93 The following ADMLA provisions provide that:

- (a) she may dispose of property by will without concurrence of husband [s118]
- (b) property belonging to her on marriage shall after marriage continue to be held by her as if her own property [s119]
- (c) wages and earnings, any money acquired during marriage through exercise of her own skill or by way of inheritance, legacy, gift, her savings from and investments

⁶⁰ Chapter 4.

of her wages, earnings and property shall be deemed to be the property of married woman [s120(1)]

- (d) she may dispose of her property without concurrence of her husband [s120(3)]
- (e) she has the right to sue in her own name for recovery of her own property [s121(a)]
- (f) she has the right to have in her own name, the same civil and criminal remedies against all persons for the protection and security of her own property as if she was unmarried [s121(b)]
- (g) she is liable to such suits, processes and orders in respect of her own property as she would be liable to if she were unmarried [s121(c)]
- (h) Muslim married woman has liability for her own contracts [s122]

16.94 In view of the above legal provisions, AWARE questions why Singapore has a blanket reservation to Article 16(1) when in fact and in reality, Singapore has laws and legislation which gave men & women (including Muslim women) the same rights as required by Article 16(1)(a) to (h).

16.95 One might argue that Singapore should maintain its reservation in so far as there are provisions in ADMLA and because to a limited extent, Muslim women do not enjoy all the rights and protection afforded to women in the Women's Charter (rights and duties of husband and wife and divorce). But the rest of the Women's Charter (provisions on domestic violence, maintenance of wife and children and offences against girls and women) is applicable to Muslim women.

16.96 Although ADMLA to some extent does justify a reservation to Article (1)(a) and (c), it must be pointed out that not all provisions in ADMLA pertaining to marriage and family life are discriminatory against women. ADMLA is gender-biased on specific issues only namely:

- polygamy
- consent to female marriages
- rights to divorce
- inheritance

16.97 The 2001 CEDAW Committee urged Singapore to revisit its reservation to Article 16 with a view to lifting or narrowing it to a more specific statement. It was further pointed out that Muslim laws were not always interpreted in the same way and the Committee urged Singapore to use a more progressive rather than a more conservative interpretation. The Committee recommended that Singapore study reforms in other countries with similar legal traditions with a view to reviewing and reforming personal laws so that they conform to the Convention.

Child marriages

Minimum age

16.98 Once again, AWARE questions the Government's reservation on Article 16(2) since legal provisions are in place, which comply with this requirement.

16.99 For non-Muslims, section 9 of the Women's Charter specifies the minimum age of marriage as 18 (unless solemnization was authorized by special marriage licence granted by the Minister). There is protection for an underage bride through the requirement to involve the State – a Minister's approval is required if the marriage involves an under 18 year-old⁶¹.

16.100 For Muslims, the minimum age is 16 although a Kadi may in special circumstances solemnize marriage of a girl who is below 16 but has attained the age of puberty.⁶² According to the Minister in charge of Muslim Affairs, Dr. Yaacob Ibrahim, there were four marriages, between 1999 and 2003, where the brides were below 16 years of age. There was no marriage involving a groom below 16.⁶³ According to the Minister, between 2004 and 2006 the number of minor brides dropped from 564 to 422, while the number of grooms dropped from 159 to 118. There are plans to increase the minimum age of consent for marriage from the present 16 to 18. The Minister announced this in Parliament in March 2007. AWARE applauds this move. However, AWARE maintains that the age of consent must be applied equally to both male and female. There should not be a provision allowing a kadi to solemnize marriage of a girl below the age of 18 in special circumstances but who has attained the age of puberty.

Registration of marriages

16.101 Section 25 of the Women's Charter makes the registration of (non-Muslim) marriages in an official registry compulsory.

16.102 For Muslim marriages, sections 102 and 103 of ADMLA make registration in an official registry compulsory.

16.103 The reservation on Article 16(2) is thus inexplicable. It cannot be justified on the grounds of protecting the personal laws of Muslims as ADMLA specifies the minimum age for marriages and makes registration of marriages compulsory. For

⁶¹ Women's Charter Chapter 353 section 21(2). Appendix 16.3

⁶² ADMLA section 96 (4) and (5). See Appendix 16.2

⁶³ Response to question in Parliament, 9 March 2007, Hansard Volume 82. <http://www.parliament.gov.sg/>

non-Muslims, there is no reason for such a reservation in view of sections 9 and 25 of the Women’s Charter.

16.104 By maintaining this reservation, Singapore suggests that it is not complying when in actual fact, it is complying with CEDAW.

Marital Rape

16.105 The current legislative framework of Singapore affords husbands with a cloak of immunity for acts of marital rape against their wives. Notwithstanding the stiff penalties prescribed by the law for rape (which no doubt serves as a strong deterrent against such acts of malfeasance against women), it is surprising that a group of men are clothed with an immunity which, taken at its most liberal, condones such acts of violence against women.

Definition of “Rape”

16.106 Section 375 of the Penal Code⁶⁴ defines the offence of “rape”. A man is said to commit “rape” when he has sexual intercourse with a woman:

“Against her will;
 Without her consent;
 with her consent, when her consent has been obtained by putting her in fear of death or hurt; with her consent, when the man knows that he is not her husband, and her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married or to whom she would consent; or
 With or without her consent, when she is under 14 years of age.”

16.107 Notably, the exception to section 375 states “sexual intercourse by a man with his own wife, the wife not being under 13 years of age, is not rape”.

16.108 As it currently stands, the law thus establishes a regime where a married man cannot be found guilty of rape of his wife, and further endorses the notion that a married man effectively wields such carte blanche control over his wife that he is able assert and demand for sexual intercourse with his wife as he wishes.

Origin of the husband’s immunity

16.109 The origin of the marital rape exemption is generally attributed to Sir Matthew Hale, who wrote: “the husband cannot be guilty of a rape committed by himself

⁶⁴ Chapter 224.

upon his lawful wife, for by their mutual matrimonial consent and contract the wife hath given herself in this kind unto her husband, which she cannot retract”.⁶⁵

16.110 The marital rape exemption was subsequently judicially considered in the case of *R v Miller*⁶⁶. In that case, the wife had presented a petition for divorce on the ground of adultery but before the petition was heard, the husband had intercourse with her against her will. Lynskey J. held that the husband had no case to answer on the charge of rape, as “it is not until a decree nisi, or possibly, a decree absolute, has been pronounced that the marriage and its obligations can be said to have been terminated”, and as long as the marriage was subsisting, the wife is deemed to consent to marital intercourse.

Criticisms of the marital rape exemption

16.111 The notion of absolute, unqualified assent of the wife to marital intercourse during the subsistence of a marriage is over-simplistic and cannot be sustained in view of the realities of marital relationships, the evolving roles and status of women and society’s increased awareness of the rights and liberties of women.

Circumstances of irretrievable breakdown in marriage are ignored

16.112 By Lynskey J’s reasoning in *R v Miller*, a wife is deemed to consent to marital intercourse as long as the marriage is subsisting. In the local case of *Sivakolunthu Kumarasamy v Shanmugam Nagaiah and Anor*⁶⁷, the Court of Appeal held that the grant of a decree nisi is a recognition by the court that the marriage is at an end and when such a decree is pronounced, there is, as Lord Wright (in *Fender v St. John-Mildmay*⁶⁸) said, no longer any matrimonial home, no consortium vitae and no right on either side to conjugal rights.

16.113 This position is however unrealistic. In practice, before a writ for divorce is presented to signal the commencement of divorce proceedings, the marriage would have shown signs of fatigue and signs of heading down the path of irretrievable breakdown⁶⁹.

⁶⁵ 1 Hale, *Pleas of the Crown*, p 629.

⁶⁶ [1954] 2 AllER 529.

⁶⁷ [1986] 2 MLJ, [1988] 1 MLJ 341, CA.

⁶⁸ [1938] AC 1 at pp45-46.

⁶⁹ See section 95 of the Women’s Charter (Chapter 353): Irretrievable breakdown of marriage to be sole ground for divorce. See Appendix 16.3

16.114 A strict application of Lynskey J's reasoning would mean that even when the relationship between the husband and the wife is so strained and consortium has broken down and circumstances justify the presentation of a writ for divorce (and the subsequent granting of a decree nisi), the husband can still expect to be able to extract sexual intercourse from the wife as he pleases without being liable for rape, up to the day the decree nisi is granted. Surely the decree nisi cannot be the sole, or even a definitive marker for the wife's deemed consent to marital intercourse.

16.115 The perimeters of the wife's deemed consent to marital intercourse should be drawn by the actual state of the marital relationship, not based on the legal formality of obtaining the document known as the decree nisi.

Circumstances underlining a void/voidable marriage are ignored

16.116 The marital rape exemption is largely premised on the notion that the marriage calls for consortium between husband and wife, which may be demonstrated by the incidences of marital intercourse.

16.117 What if the marriage was not to be valid and subsisting in the first place? Under sections 105 and 106 of the Women's Charter⁷⁰, a marriage may be declared void or voidable under certain circumstances, e.g. at the time of the marriage the defendant was suffering from venereal disease in a communicable form.

16.118 Surely where a party to the marriage has sought a declaration that the marriage be deemed void/voidable (but pending the issuance of the decree nisi making such declaration), the wife should be entitled to resist any attempts by the husband for marital intercourse, since the very institution of their marriage is now called into question by virtue of the seeking of the declaration.

Just cause for refusing marital intercourse

16.119 Lynskey J's reasoning cannot be read to give rise to an absolute and unqualified assent by the wife to marital intercourse. If, for example, the husband is known to have a sexually transmitted disease, in particular AIDS, the wife should be deemed to have withdrawn her consent (on the premise that consent is presumed by virtue of the matrimony).

16.120 A husband may make inordinate or unreasonable demands for marital intercourse through oppression, intimidation and actual violence.

⁷⁰ Chapter 353.

16.121 Section 375(c) of the Penal Code states that the crime of “rape” is established where it can be proven that a man has had sexual intercourse with a woman “with her consent, when her consent has been obtained by putting her in fear of death or hurt”.

16.122 Where a husband has demonstrated a propensity to exert dominance over his wife through acts of oppression, intimidation and actual violence, further subservience and submission by the wife would only serve to fuel such streaks of cavaliness and brutality and hold the wife deeper in ransom to such acts of the husband.

Archaic notions of marital obligations

16.123 The marital rape exemption is at worst an archaic vestige of bygone times when women were deemed mere chattels, as part of her husband’s property (with the resulting implication that the forced sexual intercourse was really little more than a man making use of his own property)⁷¹, and at best, a feeble attempt by the law to uphold and promote consortium in a marriage.

16.124 Unfortunately, the marital rape exemption is not tenable in the 21st Century when women have, through education and the mass media, become more aware of their rights and liberties. A woman’s dignity and integrity is not to be circumvented, nor in the least compromised, by the marital rape exemption.

16.125 Society has also come to terms with the notion that a marriage is a partnership between the husband and the wife. Section 46 of the Women’s Charter states:

“Upon the solemnization of marriage, the husband and the wife shall be mutually bound to co-operate with each other in safeguarding the interests of the union and in caring and providing for the children.

The husband and the wife shall have the right separately to engage in any trade or profession or in social activities.

The wife shall have the right to use her own surname and name separately.

The husband and the wife shall have equal rights in the running of the matrimonial household. ”

16.126 There is no reason why the husband should be given free rein to assert his “right” for marital intercourse and the wife has no corresponding liberty to decline.

Alternative remedies no excuse

16.127 Proponents of the marital rape exemption may argue that any aggrieved wife who does not benefit from the protection under section 375 of the Penal Code can look towards other remedies such as those pertaining to cause hurt under the Penal

⁷¹ Tan Cheng Han, “Marital Rape-Removing the Husband’s Legal Immunity”, (1989) MLR 112 at p 122

Code⁷² or seek protection via a Personal Protection Order for such acts of “family violence”⁷³.

16.128 This reasoning can be faulted on the following grounds:

- a) “Non-wives” also have other remedies available to them, but they are afforded the protection of section 375 of the Penal Code.
- b) The availability of other remedies is no reason for depriving wives of the protection of section 375 (especially when “non-wives” have both section 375 and the other remedies available to them).
- c) Section 375 deals specifically with rape as a distinct offence against women, in particular, one which desecrates a victim’s dignity and integrity and has a great potential to cause severe emotional scarring. The punishment involves imprisonment for a term which may extend to 20 years, and the perpetrator shall also be liable to a fine or to caning⁷⁴. The punishments for other offences are relatively less severe:
- d) Criminal Force: Imprisonment for a term which may extend to three months, or fine which may extend to \$500, or both⁷⁵.
- e) Voluntarily causing hurt: Imprisonment for a term which may extend to one year, or fine which may extend to \$1,000.00, or both⁷⁶.

Jurisdiction Comparisons

16.129 Significant progress has been made in several jurisdictions making in-roads to the marital rape exemption.

16.130 In Australia, the South Australian Criminal Law Consolidation Act Amendment Act 1976 provides that a person will only be guilty of rape on his spouse if the offence was accompanied by (a) assault occasioning actual bodily harm, or threat of such an assault upon the spouse, (b) an act of gross indecency, or the threat of such an act, against the spouse, (c) an act calculated seriously and substantially to humiliate the spouse, or threat of such an act, or (d) threat of the commission of a criminal act against any person⁷⁷.

⁷² See for example section 321 of the Penal Code (Chapter 224) on voluntarily causing hurt. See Appendix 16.6

⁷³ See sections 63 and 64 of the Women’s Charter (Chapter 353).

⁷⁴ Section 376(1) of the Penal Code (Chapter 224). See Appendix 16.6

⁷⁵ Section 352 of the Penal Code (Chapter 224). See Appendix 16.6

⁷⁶ Section 323 of the Penal Code (Chapter 224). See Appendix 16.6

⁷⁷ Section 12 Criminal Law Consolidation Act Amendment Act 1976.

16.131 In Western Australia, the husband's immunity has been lifted in cases where he is separated from her and they are not residing in the same residence⁷⁸.

16.132 In Victoria, the Crimes (Sexual Offences) Act 1980, amending Section 62(2) of the principal legislation enacted that: "Where a married person is living separately and apart from his spouse the existence of the marriage shall not constitute, or raise any presumption of, consent by one to an act of sexual penetration with the other, by the other.

16.133 In Sweden, a distinction is made between rape by a stranger and rape by a husband. The maximum prison term for a husband would be four years' imprisonment and the maximum prison term for a stranger is 10 years' imprisonment⁷⁹.

Recent Developments

16.134 Small, tentative steps to implement long-awaited reforms appear to be on the horizon. Proposed reforms to the Penal Code will remove the husband's cloak of immunity in certain limited circumstances, where the wife is legally separated from her husband, or has taken a Personal Protection Order to prevent her husband from having sex with her. While these reforms are a step towards the total lifting of the husband's cloak of immunity for marital rape, a greater leap forward would be more welcome.

16.135 The proposed reforms take cognizance of circumstances where it is hardly disputable that matrimony has broken down and conjugal rights have dissolved, proved no less, indeed, by court papers. However, the proposed reforms ignore the fact that marital rape can happen under the roof of a seemingly intact, or even apparently blissful, family.

16.136 What about the blue-collared worker wife who is the silent victim of marital rape because she is ill-informed of the choices she has and the remedies she is entitled to? What about the well-heeled wife, who is reluctant to break away from her husband because, after having left the workforce for years, she is conscious that it would be difficult to sustain herself at the same standard of living?

16.137 It has been suggested that the cloak of immunity should also be lifted in the following circumstances:

- (a) marriages in which an application for maintenance within marriage has been filed at court;

⁷⁸ Section 2 Criminal Code Amendment Act (No. 3) 1976.

⁷⁹ Tan Cheng Han "Marital Rape – Removing the Husband's Legal Immunity", (1989) MLR 112 at p 127.

- (b) marriages in which there is a history of emotional or financial abuse - to which there can be independent witnesses; and
- (c) marriages in which either party has a record of drug use, problem drinking, problem gambling or similar issues.⁸⁰

16.138 To deny a woman recourse for the criminal offence of rape by virtue of the fact that the perpetrator is her husband penalizes her. All are equal before the law, and husbands should not be allowed to be “more equal” than others.

Resources for women

16.139 The incidence of divorce is on the rise. Within a period of 20 years, the number of marital dissolutions per year increased from 2,344 in 1985 to 6909 in 2005⁸¹.

16.140 In 2005, the wife instituted the majority of non-Muslim divorces (70%)⁸². The most often cited ground for divorce was unreasonable behaviour (cited by 54% of these women)⁸³.

16.141 What then constitutes “unreasonable behaviour”? It could range from one’s spouse giving one the cold shoulder, to one’s spouse’s constant derision of oneself, to more seriously, instances of physical abuse.

16.142 Crimes against women are also prevalent. In 2005, there was a noticeable increase in the cases involving outrage of modesty. Such cases increased by 212 cases, from 1,096 cases in 2004 to 1,308 cases in 2005. About 25% of outraging of modesty cases took place at common areas of HDB blocks, such as lift/lift landing, void deck, staircase/staircase landing. This was similar to the situation in 2004. Cases involving contacts via internet and telephone chat lines increased from 10 in 2004 to 14 cases in 2005⁸⁴.

16.143 Drawing a comparison between the first six months of 2005 and 2006, rape increased by one case, from 55 cases in January–June 2005 to 56 cases in the

⁸⁰ Proposed Amendment to the Penal Code - Marital Rape Exemption. Extract of AWARE's response to the Media on the Proposed Amendments to the Penal Code, with a focus on the issue of Marital Rape. <http://www.aware.org.sg/>. See AWARE's position paper on Proposed Amendments to the Penal Code, December 2006

⁸¹ Singapore Department of Statistics, 2005: <http://www.singstat.gov.sg/pdtsvc/pubn/softcopy/smd2005.pdf>

⁸² Singapore Department of Statistics, 2005, <http://www.singstat.gov.sg/pdtsvc/pubn/softcopy/smd2005.pdf>

⁸³ Singapore Department of Statistics, 2005, <http://www.singstat.gov.sg/pdtsvc/pubn/softcopy/smd2005.pdf>

⁸⁴ Singapore Police Force, Crime Situation, 2005, http://www.spf.gov.sg/stats/stats2005_index.htm.

same period in 2006. About 95% of all rape cases this year involved offenders who were known to the victims⁸⁵.

16.144 There is therefore a demand for support facilities for these women who suffer from domestic breakdown or are the victims of crimes relating to women. It is imperative that Singapore society has the necessary resources to deal with such social phenomena. AWARE acknowledges that there are networks among the Police and NGOs on family violence matters. It is also important that sensitisation programmes are always consistently maintained whether officers on the ground or in special units are males or females.

16.145 It is encouraging that there is a family-based focus in the curriculum offered by the Department of Social Work of the National University of Singapore⁸⁶. However, AWARE hopes that a greater focus on women-specific needs (e.g. counseling for victims of violent crime such as rape) can be integrated into the programme of any school or training institution in order to cater to the needs to such women.

Women judges

16.146 Singapore has no female Muslim judges in the Syariah Court. Muslim women have been appointed as judges in Sub-Court and are responsible for administering civil law. Since 2 May 2007, the Syariah Court has a new female Registrar (Ms. Animah Gani). This is a positive change. AWARE hopes that this may in future be extended so that the Syariah Court is willing to appoint female judges.

16.147 Pakistan and Indonesia have women judges. There is one female Syariah Court Judge in the Philippines and Malaysia is currently contemplating it.

16.148 AWARE believes that there should be women judges in the Syariah Court as this is not in contradiction to Koranic principles. The ADMLA and its Rules is gender-neutral with regards to the position of judges, ad hoc judges and registrars in the Syariah Court. Section 91 of ADMLA states that Kadis and Assistant Kadis should be "suitable male Muslims." This should be amended.

RECOMMENDATIONS

16.149 It is clear that all the principles in Article 16(1)(a) to (h) are embodied in Singapore's Women's Charter. AWARE therefore questions why Singapore

⁸⁵ Singapore Police Force, Crime Situation, 2006, http://www.spf.gov.sg/stats/statsmidyr2006_index.htm

⁸⁶ For example, SW3211 "Community-based Family Services" http://www.fas.nus.edu.sg/swk/undergrad3_1.htm#1000.

maintains a blanket reservation to Article 16(1) when family laws do not discriminate between men and women (non-Muslims). Why is Singapore not acknowledging this? By having a blanket reservation the Government is saying that its family laws discriminate against women when in reality, the laws do not. This reservation thus makes no sense and there is no discernible reason for preserving and maintaining it.

Guardian

16.150 AWARE proposes that the requirement of wali be removed, as it is not in contravention of Koranic principles to have such a requirement removed.

Marital rape

16.151 The marital rape exemption clearly has no place in modern society and legislative reform is called for to transform the position of wives who would otherwise be victims not only of their husbands' acts of forced sexual intercourse, but also of an insipid state of the law which does not serve to adequately protect their interests.

16.152 AWARE recommends that the cloak of immunity accorded to husbands be removed from section 375 of the Penal Code. A wife should be entitled to refuse her husband's advances as she would any other man. This is especially so if the husband is behaving with unreasonableness or depravity. If the husband is of the view that such (and we must add, persistent) refusal of his advances deprive him of consortium in the marriage, he can seek recourse under the arm of family law, and cite such "unreasonable behaviour" as a ground for divorce. The wife is accorded an opportunity to explain her reasons for refusal of consortium in her divorce papers in reply. If the reasons furnished by the husband do not stand up against the rigors of the court's scrutiny and the divorce is not granted, the wife will stand vindicated.

CONCLUSION

The Convention on the Elimination of All Forms of Discrimination Against Women is an important agreement that Singapore has ratified. The basic premise of the Convention is to ensure that women have both access to opportunities and control over these opportunities to develop to their fullest potential.

AWARE acknowledges that in Singapore women have many opportunities. There is a high literacy rate. Singapore women have jobs, own properties and can raise a family in a relatively safe environment. One can even say that one is hard-pushed to find out what exactly is not working well for women in Singapore. But tracking progress for these CEDAW Reports reveal what more can be done for women and to what extent women have made real progress and to what extent they are denied opportunities. This analysis is presented in this Report and done with the intention to identify the road map for the women's movement here.

The Government is also extremely good at complying with the conditions in the Conventions it ratifies. There is high confidence level that implementation and enforcement will not pose monumental problems in Singapore. Nevertheless there are opportunities for the Government to work with other stakeholders to find the solutions needed to accede to this widely ratified Convention.

There are three points that are worth reiterating here:

- It needs to be said that implementing CEDAW at the State level is still not adequate enough in that there does not seem to be a proper and effective monitoring mechanism of laws and policies to measure outcomes with regards to CEDAW. It is agreed that instituting databases and monitoring mechanisms are costly but the usefulness in framing policies to further develop human potential in a talent-hungry Singapore cannot be overlooked.
- It is also important to bring on board the private sector and to mark discussions as Gender Equality so that rights of women and men are put in place at both the policy level as well as in the daily practices within the organization.
- A setback to complete accession to CEDAW seems to lie in culture and tradition. And very often this is taken as a given. It is important to work with researches and academics to have many dialogues with the various communities in multi-faith and multi-ethnic set-ups in a process of engagement to bridge differences where they exist, dissolve misinterpretations and work together to find the pathways to gender equality.
- The responsibility to implement the Convention cannot be left to the Women's Desk or/and the IMC on CEDAW. It is the Corporate Social Responsibility project of the Government, as a whole.

AWARE's commitment to this process of CEDAW will continue – we will continue to run programmes to educate the public on CEDAW and their rights as women. We will

also work with other organizations to monitor and report on the progress of women in Singapore.

This Report is a means to understand how women have progressed, identifying problems well so that we are able to find solutions.

Thank you for your attention.

LIST OF APPENDICES

Appendix 2

Appendix 5

Appendix 6

Appendix 7

Appendix 8

Appendix 9

Appendix 10

Appendix 11

Appendix 12

Appendix 16