

Committee on Economic, Social, and Cultural Rights (CESCR)

Please note that findings presented in this paper are excerpts from the first shadow report on the Convention for elimination of all forms of discrimination of women- CEDAW, prepared by Association for emancipation, solidarity and equality of women of Republic of Macedonia. Association for emancipation, solidarity and equality of women – ESE (Republic of Macedonia), had an honor to participate and address the pre session working group for the 34 session of CEDAW committee. The pre session took place in period 25-29 of July, 2005, New York in the premises of the United Nation.

METODOLOGICAL NOTES

This Report is based on information acquired from several sources, using various methodological procedures:

1. Sources of information
 - ü The Constitution and laws in the country
 - ü Experts in various fields
 - ü Women from various ethnic communities
 - ü Statistical records, studies, reports and other written materials

2. Methodological procedures
 - ü Contents analysis
 - ü Interviews with experts
 - ü Work with focus groups

3. Description of the population
 - ü The Constitution, laws and bylaws (Appendix 1)
 - ü 19 experts (Appendix 2)
 - ü 15 focus groups (Appendix 3)

Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

Areas of concern

- § There is no definition of discrimination in our applicable legislation;
- § There is a discrepancy between equality between men and women as defined in the law and as found in real life;
- § There are no stand alone anti-discrimination laws;
- § There is a general type of discrimination classified as a crime which is punishable with imprisonment, however in reality there are no practical experiences in this respect;
- § There are no mechanisms for protection in cases of non-compliance, procedures or practices of discrimination against women other than court proceedings;
- § There is no law regulating the relevant gender instruments of the state;
- § The Gender Equality Department within the Ministry of labor and social affairs, despite the fact that it has been in existence for a significant number of years, still has a vague mandate;
- § There are two special temporary measure proscribed in the area of greater participation of women in politics and decision making structures (Law on election of members of Parliament);
- § Notwithstanding the special temporary measures, it is obvious that they are vaguely defined (they do not specify what should be the positions of women on the lists of candidates);
- § Prevailing traditional division of roles in the family, and dominant role of the mother in raising child.
- § Transferring of the traditional models of upbringing child, specially in rural areas

Legal conformity

There is no law in the Republic of Macedonia that defines “discrimination against women”, nor has the definition of discrimination against women contained in Article 1 of *CEDAW* in its present form been embodied in the applicable laws and regulation.

The Constitution of the Republic of Macedonia proclaims equality of all citizens in their freedoms and rights, regardless of their **GENDER**, race, colour of skin, national and social origins, political and religious beliefs, property and social status¹.

¹ Article 9 of the Constitution of the Republic of Macedonia states “Citizens of the Republic of Macedonia shall be equal in their freedoms and rights, regardless of their gender, race, colour of skin, national and social origins, political and religious beliefs, property and social status.

Citizens shall be equal in the eyes of the Constitution and the laws.”

Article 54² of the Constitution contains an additional second guarantee for the human rights and freedoms (postulated in Article 9 of the Constitution), which precisely states the instances in which the rights and freedoms of citizens may be restricted.

What is of particular importance is the provision in Article 137 of the Criminal Code of the Republic of Macedonia, which prescribes imprisonment for those who will deprive of or restrict rights of people and citizens defined in the Constitution, law or a ratified international convention on the basis of their gender, race, colour of skin, etc., as well as for those who, on the basis of such differences, will entitle citizens to privileges contrary to the Constitution, law or a ratified international convention³.

When it comes to protection of freedoms and rights of citizens defined in the Constitution and laws, there are special powers assigned to the Ombuds person, who may initiate a procedure within his/her competence, upon identifying such a violation on part of state administration bodies and other bodies and organizations with public authorities.

Anti-discriminatory laws related to gender issues are not existing in the country.

In case of violation of the legal provisions related to gender issues, the substantive legislation in the Republic of Macedonia envisages two types of liability: offense and criminal liability. The former is postulated in individual laws⁴, while the latter is defined in Article 137 of the Criminal Code of the country, which refers to violations of equality of citizens.

There is a Government resolution foreseeing a state mechanism for improvement of relations between genders. The basis of the mechanism is the Gender Relations Improvement Unit within the Labor Sector of the Ministry of Labor and Social Policy.

There are two instances of prescribed temporary special measures aimed at accelerating a de facto equality among men and women. Both instances refer to the enhancement of the participation of women in politics and decision-making structures⁵.

² Article 54 of the Constitution of the Republic of Macedonia reads: “Freedoms and rights of people and citizens may only be restricted in instances defined in the Constitution.

Freedoms and rights of people and citizens may be restricted in times of war or extraordinary situations, in accordance with the constitutional provisions.

Any restriction of freedoms and rights may not be discriminatory on grounds of gender, race, complexion, language, religion, national or social origin, property or social status.

No restriction of freedoms and rights may refer to the right to life, prohibition of torture, inhumane and humiliating treatment and punishment, legal definition of punishable acts and sanctions, as well as to the freedom of belief, conscience, thought, public expression of thought and religion.”

³ From three months to five years; in case such an act is committed by an official in the course of their service, they shall be punished by imprisonment of 6 months to 5 years. Following the amendments to the Criminal Code in 2004, legal entities are also subject to fines for such criminal acts.

⁴ Law on Labor Relations, Law on Health Protection, Law on Elementary Education, Law on Secondary Education, and other special laws.

⁵ Such temporary measures are contained in the Law on Election of Members of Parliament⁵ and the Law on Local Elections⁵, which foresee a 30% representation of women.

Actual conformity

Although the legislation in the country contains no provisions to make the term discrimination operational, all researchers understand its meaning.

The state provides complete legal gender equality. The Constitution and laws guarantee gender equality. The only exception that was pointed out, i.e. deviation from formal equality, is the lack of the institute parental absence of leave; the country's Law on Labor Relation recognizes only the maternity leave institute, to which only mothers are entitled, while fathers have such a right only under exceptional circumstances.

In cases of discrimination, the laws foresee court and other type of legal protection that women may turn to in the same manner and under the same terms as men. The court practice of the Constitutional Court includes several initiatives for assessment of legality of laws and provisions related to discrimination, but none has been accepted thus far. As pointed out, it is interesting that women submitted none of those initiatives. Judges interviewed in a capacity of experts stated that their court practice (both civil and criminal) includes no cases of discrimination based on gender. No statistical records are kept of the issue.

The Gender Equality Unit was established under the Ministry of Labor and Social Policy in January 1997. Its basic role is improvement of the status of women in the Republic of Macedonia.

In light of its goals, the Gender Relations Improvement Unit needs further capacity strengthening and defining its mandate. There is an evident need to revise the National Action Plan and establishing a timeframe to achieve the goals set (2000).

As a result of initiatives of non-government and government organizations, significant and comprehensive measures have been undertaken with the introduction of quotas for increasing the representation of women-candidates for parliamentary elections and election of council members at a local level. The quotas impose an obligation on political parties to ensure representation of at least 30% of each gender in their lists of candidates, while such representation on both the upper and lower part of the lists of candidates is to be additionally précised for the election of local council members.

The following is included in the legislation to ensure protection of motherhood:

- Pregnant women may not be fired;
- Women have the right to maternity leave in a duration of nine months;
- Single parents with children with impediments in their development are entitled to shorter working hours.

The traditional roles in the family do exist. Recently, there have been changes in this area. Yet, the majority of citizens accept the traditional roles (men are responsible for ensuring material safety in the family, while women are responsible to take care of the children and home).

“It is the man and father who should be obeyed” – a Roma urban focus group

“It is the man who usually provides for the family. It is known that the unwritten rule is that women are those who should cook and clean. Men are not willing to undertake other obligations”.
– a Macedonian urban focus group

In rural areas, the exceptions to these roles are minimal, while things have been changing in urban areas, where there is division of tasks. It may also be concluded that in certain ethnic

communities (Albanian, Roma) the patriarchal pattern of relations, which is strictly respected, has an impact on the overall conduct of and towards women.

“A woman, it is a known fact, should know how to cook, do the laundry, take care of the children, clean the courtyard and work in the field.” – an Albanian rural focus group

”Women undertake all domestic chores (cooking, hygiene, raising children, work in the field). Men, as a rule, are supposed to provide for the family and possibly fix things in the home. One of the largest chores of men is to go to the village shop and to drink beer with the neighbors.” – a Macedonian rural focus group.

b) Although both parents are equally entitled to parental rights and responsibilities according to the legislation in the country, in practice it is women who are responsible for upbringing children. There are still traditional models of raising children, which are more present in rural areas.

In the upbringing of female children, there is a rule that says they “should be more obedient than boys, servile, quiet and always nice. Girls are not to be engaged in activities that would take them too far from the home or in activities requiring physical strength and should never express their opinion in public”.

The role of the non-governmental sector is crucial for introducing changes in this segment of life.

Recommendations:

1. There is a need to adopt a Law on Gender Equality;
2. There is a need to adopt stand alone anti-discrimination laws;
3. There is a need in certain laws (in essence all but the laws governing the area of education and employment) provisions prohibiting discrimination to be incorporated;
4. There is a need of raising awareness among general public about the existence of general incrimination of the discrimination as a criminal act, (there is lack of practice in that regard);
5. There is a need to ensure that the Gender Equality Department is raised to a higher level of organizational set up as a body directly under the Government rather than under the Ministry;
6. There is a need to develop and strengthen the capacities of institutional gender equality mechanisms at a local level;
7. The national action plan should be revised and in it activities should be defined with special attention to the time line for implementation; indicated budget, and monitoring plan.
8. There is need of adopting measures to encourage the political parties to respect the special temporary measures;
9. There is a need for introduction of special temporary measures and in other spheres such as the economy, the business world and management positions;
10. The state should undertake activities through introducing educational programs and adopting educational methods, in order to overcome the prevailing traditional division of roles in the family, as well to overcome prejudices and stereotypes who have great impact upon the factual position of man and women;
11. The state should strengthen the cooperation with non-governmental organizations through lending support, providing incentives and incorporating their activities as the exclusive actors working to overcome the traditional models and promote gender relations;

Article 6

1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

Article 7

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

(a) Remuneration which provides all workers, as a minimum, with:

- Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

- A decent living for themselves and their families in accordance with the provisions of the present Covenant;

(b) Safe and healthy working conditions;

(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays

Areas of concern

§ The high unemployment rate, increased inactivity rate and the high number of women unpaid family workers.

§ There is no legal provision that explicitly obligates the employer to inform women about conditions at the workplace, which may have a harmful effect on their reproductive health.

§ There are no special provisions in the Law on Employment and the collective agreements to regulate the issue of sexual harassment;

§ There is no specific provision that will ensure that women are returned to their jobs with the same qualifications and without any professional demotion after the maternity leave;

§ There are no provisions in the Employment Law and the Law on protection at work which allow for modifications of provisions in line with the most recent scientific and technological developments;

§ Despite the fact that there are general provisions covering protection at work, there are no special provisions that provide special protection for pregnant women other than protection at night work.

§ There are no provisions on parental leave, and it is necessary to include that in the law;

Legal conformity

The Constitution of the Republic of Macedonia provides for equality through its provision "Every job is open to all under equal conditions". Any person that is 15 or older, and is work capable from a health point of view, may be employed.

Right of women to equal employment opportunities as men

The law-maker stipulates that women and men must be provided with equal opportunities and equal treatment in the process of recruitment. In addition, employers are forbidden to put in an unequal legal position an applicant or an employee on the grounds of race, colour of skin, sex, age, health status/disability, religious, political or other belief, membership in trade unions, national or social background, family status, property status, or any other personal circumstances.

Pregnancy or marital status of women have not been specified as criteria on the grounds of which the employer must not put the person seeking employment or the employee in an unequal legal position. However, there is the criterion "Because of other personal circumstances ".

Right of women to equal wage

The Constitution provides for the right to appropriate wage of each employee. Each employee has the right to a salary and women are not exempt from this. The law-maker obliges the employer to pay equal wage to employees for the same job including equal job requirements irrespective of their gender. Any violation of the previous legal provisions is punishable.

Ensuring equal right to social security and to paid leave for women

Under the Constitution, citizens have the right to social security and social insurance as established by law and collective agreements. The Constitution provides that the Republic of Macedonia should ensure the social protection and social security of citizens in accordance with the principle of social justice. The State provides the right to social protection in accordance with the Social Protection Law. The Law includes penal provisions that envisage sanctions for violation on the part of any social welfare institution or another legal entity that fails to provide social protection to individuals at social risk.

There is a difference between the terms "vacation" and "leave". The Constitution guarantees paid vacation, and the Law guarantees both a paid vacation (daily, weekly, annual) and a paid leave amounting to a maximum 7 days annually, whereas in case of vocational training this leave may last longer and applies to all employees. A female employee is entitled to a paid maternity leave lasting for a maximum of 9 months.

There are penal provisions for employers that fail to provide a female employee with special protection, including the use of maternity leave.

Equal right of women to health care and safety at work

The Constitution and the laws provide for the right to health care for all people, without using the terms "man" and "woman". The Constitution guarantees special protection of mothers, whereas the law guarantees special protection of women at work.

The law-maker imposes a responsibility on the employer to provide the necessary conditions for protection at work and to make the worker familiar with all the risks at work and with the rights and obligations concerning the protection at work and working conditions. The worker has the right to refuse to work if he/she is under threat of an immediate danger to his/her life or health resulting from the failure to enforce the prescribed measures for protection at work.

It is not explicitly stated that the employer is obliged to inform the women about the conditions at work that may have a negative impact on their reproductive health. The law sets out that a female worker may not work at a workplace that primarily involves strenuous physical activities, activities under the ground and under water, nor any other jobs that could have a harmful impact on her life and health.

Sexual harassment

There are no special provisions regulating the issue of sexual harassment in the Labour Relations Act and in the general collective agreements.

Prohibition of dismissal because of marriage, pregnancy or maternity leave

There is no imperative legal provision prohibiting dismissal because of marriage and pregnancy. Maternity leave as grounds for employment termination is not a justified reason.

The right of women to a reasonable maternity leave

The national legislation provides for the right of women to a reasonable maternity leave, though it lacks a specific provision on ensuring an appropriate position when returning to work, as it does for the soldiers while doing their military service or for persons referred to execute a public function who are guaranteed the return to a position that matches their qualifications.

Workers are protected in general, but there is no particular protection for pregnant women, except their special protection in cases of night work.

Protective legislation faced with the scientific and technological knowledge

There is no legal provision in the Labour Relations Act or in the Law on Protection at Work stipulating that the respective provisions will change in accordance with the new scientific and technical knowledge.

The legislation does not define expressly the harmfulness of a job and the extent of harm a job can produce. It actually leaves it to any individual to assess whether the job is harmful for his/her health, and it is left up to his/her individual judgment to initiate a process of protection.

Actual conformity

The right to work is a constitutionally guaranteed inalienable right.

From a formal aspect, men and women have the right to equal employment opportunities including the use of equal criteria. However, there are deviations in practice, especially in the private sector.

The transition to a market economy has had a negative impact on the position of women as well as men in the labour market. Though it is obvious that the transition negatively affected both

genders, the share of women in the economically active population is much lower than that of men, women tend to be mostly represented in the low paid sectors, and a lot of women are working in the informal sector⁶. >

There are no guarantees in the legislation that women should obtain equal jobs as men and be able to make a free choice of jobs. Most often, women can find jobs in the private sector, mainly in the textile industry, where they are paid the least and where the employment is based on a Temporary Service Contract, which is not a legal basis for employment (in this case no contributions or any other benefits due from the employment status are paid). She is forced to accept anything that is offered to her, with no possibility to choose.

<The unemployment trend over the past years shows a larger number of unemployed women in comparison with men, whereas the two rates have become almost identical in the past three years (2000- 2003). However, even this equal representation of women in the total unemployment rate is disconcerting for the simple reason that the share of women in the economic activity rate is far below the share of men. The activity rate, in accordance with the data obtained from the Labour Force Survey carried out in April of 2003 by the State Statistical Office, amounts to 43.4 % for women and 65.6% for men. These data indicate a lower representation of women in the economically active population, which can result in difficulties for women, unlike men, to gain access to well-paid jobs, but it can also be a result of their discouragement because of constant job seeking and their subsequent withdrawal from the labour market.>

The State lacks an **incentive mechanism that would provide equal treatment of men and women at work**. The **only** tool is the Labour Inspection that oversees the application of the Labour Relations Act and of the Law on Employment.

It should be emphasized that **there is a difference** in practice **between the state and the private sector**. **In the private sector**, legislation is not observed with regard to the issue of entering employment and the enjoyment of the rights arising from employment in general. It is becoming more and more frequent that in the existing, newly formed private sector, not all employees enter employment in accordance with the legislation and the collective agreement, or there may be wage differences. In this sector the salaries are much lower, and gender-based discrimination is more emphasized (with respect to recruitment, dismissal etc.).

<Out of the total number of employed people in 2003, 54.5 % worked under the private ownership category, and 45.6% worked under another ownership category (social, mixed, cooperative, state and non-defined ownership). In the two categories, women are represented with approximately 40% in comparison with men with 60%. In the textile industry, 40% of the employees are women.>

In case they have been denied equal opportunities or equal treatment at work, they have the possibility, under the law, to initiate a court procedure, to address the Trade Union or report to an NGO dealing with the gender equality issue.

There are no special interim measures aimed at improving the employability of women in the areas where they are underrepresented. However, there are spontaneous steps forward in this respect. For example, it was believed in the past that a job in the Police was not a job for women, but nowadays there are more and more women becoming Police employees. A similar trend has

⁶ National report on the Millenium Development Goals, June 2005

been noticed in the Army, and now there is even one female pilot. This has not been a result of interim measures, but of the gender equality provisions in the legislation.

As a rule, women choose their profession and employment freely. Deviations from the usual practice include the economic situation (they tend to choose occupations that will enable them to get employed) as well as the traditional customs (in certain ethnic communities, such as the Albanian, there are cases where women are not allowed to have a job).

<There is a clear separation of “women’s” and “men’s” sectors. Women are best represented in the health and social welfare sectors, followed by the financial brokerage and education sector. Unlike them, men are predominant in the sectors of fishing, construction and electricity supply.>

The existential pressure is such that at times it forces women to do jobs that they would otherwise refuse. Because of their responsibilities at home, they most often opt for professions that provide them with more free time. There are professions and workplaces that are exclusively done by women or by men: almost 100% of the staff in the kindergartens are women; female workers are impossible to find in mines; all managerial positions, with few exceptions, are occupied by men.

<A particularly indicative group among women is the group of unpaid family workers, which points again to her specific vulnerability and position that she has in the family, thus in the society. Unlike women, men are twice less represented in this category, i.e. with 36.8%.

According to the economic status, the women in Macedonia, besides the already mentioned category of unpaid family workers, are for the most part employed (40.7%), then employers (20.9%), and self-employed (18.4 %).>

Women obtain equal wage as men do (including the non-material benefits) for a job of equal value. This issue has been solved a long time ago (after World War two). There may be exceptions to this in the private sector.

The pension is determined according to criteria that do not distinguish between men and women. The new law sets the retirement age at 62 for women and 64 for men. The benefits for unemployment, sick leave and disability are the same for both men and women. Unless these rights of theirs are recognized (or in case they don’t receive them equally as men), women have the right first to file a complaint or a petition to the employer. If they are not satisfied with that, they have the right to seek help from the trade union, the labour inspector and eventually to institute a labour dispute. These possibilities are based in the legislation. The court is the last resort.

It is forbidden by law to dismiss a woman on maternity leave. Unfortunately, in certain cases, the practice deviates from the legally guaranteed protection:

In certain enterprises, as early as during the recruitment process, women are asked questions like if she is married, if she has children, and if she is planning to have a child in the forthcoming period. There are also cases when they tell her that no matter if she has a child or not, she must not get pregnant in the next three or four years.

Employers normally don’t dismiss pregnant women, but cases of this being done after the maternity leave has been over are possible – that her employment is terminated or that her contract is not renewed if it is a temporary one.

The economic situation of women delays the pregnancy and delivery because it is very difficult to find a job in our country. The average waiting period for the first employment is 4 years. This

means that some people find a job for the first time as late as after 7-8 years. So, when an employer asks a woman not to get pregnant in the first years of her service, because otherwise she would be terminated or her contract would not be extended (if it is a temporary employment), women accept this condition.

In case of violation of these rights, women have a judicial protection.

According to the law, women get a 9-month paid maternity leave. This right belongs only to the woman and she may not share it with her husband. There are women who don't make a full use of their maternity leave – reasons for this include the wish to keep the job, to increase the family budget etc.

Men may use maternity leave only in exceptional cases provided by law. There is no parental leave in our country.

Besides kindergartens, there are no other auxiliary social services to help the parents find a balance between the family obligations and the requirements of the job, as well as to participate in the life of the society. Kindergartens are available only in urban areas. The State should undertake measures to open auxiliary social services, in particular kindergartens in rural areas.

In case one would harmonize the labour protection legislation with the latest scientific and technical achievements, it is certain that women would have even bigger protection. The Law on Protection at Work was amended twice after 1998 (in 2000 and 2002), but these amended versions have not included such provisions.

Recommendation

1. The state should incorporate gender equality in the strategic documents pertaining to employment;
2. The state should undertake concrete measures to increase employment of women and better represented in sectors where the pay is better;
3. There is a need to incorporate legal provision that explicitly obligates the employer to inform women about conditions at the workplace, which may have a harmful effect on their reproductive health;
4. There is a need to be introduced special provisions for regulating the issue of sexual harassment;
5. There is need to be introduced special provision to ensure that women are returned to their jobs with the same qualifications and without any professional demotion after the maternity leave;
6. The state should introduce legal provisions in the Employment Law and the Law on protection at work which allow for modifications of provisions in line with the most recent scientific and technological developments;
7. To broader special protection for pregnant women other than protection at night work;
8. Institute parental leave to be incorporated in national legislation.

Article 10

The States Parties to the present Covenant recognize that:

1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.
2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.
3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

Areas of concern

- § There is no provision in the civil law to forbid contractual marriage or marriage entered into for the purpose of ensuring economic safety, as well as measures leading to eradication of contractual marriages among the Romany and Albanian population;
- § There is a provision in the criminal law sanctioning illegal abortion and although abortion is legitimate still is not affordable for most of the women;
- § It is a practice among the Romany population not to register their marriages and in no rare instances do minors live together illegitimately; there is, therefore, a need for the state to undertake measures;
- § There is a need to introduce measures to eliminate with the existing frequent practice to leave the estate to the male heirs, in spite of the fact that under the inheritance law both male and female siblings are equally entitled to this right;
- § While illegitimate habitation with a minor is incriminated and punishable by the law, sexual intercourse of adults with minors at the age of 14 – 18 is not forbidden and punishable.

Legal conformity:

There is an explicit provision which stipulates that the relations between spouses shall be grounded upon voluntary decision of men and women to enter into marriage, equality, mutual respect, and support. Two individuals of the opposite sex can enter into marriage by having expressed their voluntary decision before a responsible organ in a manner provided by law.

Right of men and women to choose their spouse voluntarily and to enter into marriage only with their free and full consent.

Marriage is void, i.e. fully annulled when the consent for entering into marriage is given under coercion or by deception.

Rights and obligations of men and women upon entering into marriage and dissolving of marriage

Spouses are equally guaranteed their parental and guardianship right, as well as their right to adoption.

In the event of divorce, the uncared for spouse is entitled to require personal support and child support for the custody granted to one of the spouses. In the event of dissolution of marriage due to death, the law guarantees equal right to legacy.

Parental rights

Parental rights arise with birth and adoption. Law guarantees equal rights and obligations of parents for their children. Legally, parental rights belong to the mother and father equally. Parents exercise their parental rights jointly and with mutual consent.

Right of women to bring voluntary and responsible decisions for the number of children

The country is legally obliged to establish conditions for family planning, and for voluntary and responsible parents, however no specific provision exists which determines the right of women to voluntarily and responsibly decide about the number of children, period of time between deliveries, as well as access to information, education, and means that ensure that women exercise the said rights.

Under the law⁷, termination of pregnancy is deemed a special medical intervention for which pregnant women decide voluntarily. The said right can be restricted only for the purposes of protecting the health of pregnant women. Illegal termination of pregnancy is punishable, and criminal liability is incurred when pregnancy is terminated without the consent of the pregnant woman.

Guardianship and adoption of children are legally regulated in a single manner for both men and women.

Right to ownership

Legally, the property of the spouses may be both shared and individually owned. The property acquired in marriage shall be their shared property. Spouses administer and dispose with the property together and with mutual consent.

Marriages between children

⁷Law on abortion of pregnancy, 1977

Under the legal provisions, individuals under 18 shall not enter into marriage. However, the law allows exceptions for individuals who have turned 16 if the relevant court in non-dispute proceeding determines that the individual is physically and mentally mature for exercising marital rights and performing marital duties. In such an event, marriage can be entered into on the grounds of previously rendered opinion from a health-care institution and specialized assistance provided by the Social Work Centers.

Out of wedlock cohabitation with a minor under 16 who has turned 14 is punishable. The parent, foster parent, or guardian who shall consent to a union with such an individual, or who shall induce him/her to the said shall be held criminally liable.

Registration of marriages with the official register

The law determines the proceeding for entering into marriage. Marriages entered into according to religious customs in religious communities, although registered with their marital records have no legal effect unless registered with the registry book of marriages which is the single register for marriages concluded.

Actual conformity

Free will is a constitutive element of marriage and it refers to both partners. Thus, women can exercise their right to decline the proposal to enter into marriage. Romanyny and Albanian population enter into arranged marriages where the parent-father has (often) the main say.

Polygamy is a crime punishable with imprisonment from 3 months to 3 years. It refers to man and women equally. Rarely, such polygamy cases can be found with Romany population.

Under the law, men and women have equal rights to petition for divorce. The terms for divorce are equal for both genders.

After the divorce, the position of women is usually more difficult compared to the position of men. Most often the custody is granted to women if the children are small, a fact which additionally worsens her position. Furthermore, she must leave the family house because the husband is the registered owner of the real estate, and ownership disputes are settled in civil proceedings. It is harder for divorced women to enter into another marital union.

Under the law, in case of divorce the property shall be equally divided between both spouses. The rights of spouses who have provided higher contribution can be exercised in court proceedings. The court proceedings can be initiated with a petition filed by any of the partners.

Under the law both spouses enjoy equal parental rights and obligations. Parents have an obligation to provide for their children, which is a legal imperative norm, whereas the marital status of the parents is irrelevant.

The Government has to date not undertake specific measures which would ensure that women bring quality decisions concerning issues related to reproduction.

For some women from urban areas, these services are easily accessible and diverse. As for the prices of the services, one can conclude that for women with social insurance it is not a particular problem. When it comes to women without social insurance, prices may impose a problem, i.e. a limiting factor. Nevertheless, the conditions in rural areas are severely unfavorable. For most of the services, women need to travel, and they are not easily accessible. Apart from that, government errs when it appoints a man gynaecologist in a muslim rural environment where women do not dare to see him due to certain traditions and stereotypes.

Concerning custody over children after divorce or separation, the law envisages equal rights for both the parents. Upon passing the final decision, the court respects the opinion rendered by the team of experts from the guardianship organ.

With respect to adoption, law provides equal rights for both men and women. Unless the decision for adoption was made jointly, they cannot adopt or give a child to adoption.

Under the Family Law, the woman is entitled to make a voluntary decision about her surname. The legal alternatives in that respect are: the woman can retain her surname, adopt the husband's surname, or add her surname to the husband's and vice versa (the same legal solutions are provided for men). In practice women most often choose the husband's surname, or add their surname to the husband's. Romany women, according to their practice, take their husband's surname (representative from Romany organization). This is a common case with Albanian ethnic community as well. Lately, the number of women to retain their surname is rising.

The laws explicitly specify that every citizen of the Republic of Macedonia, regardless of gender, enjoys equal rights to a certain profession or vocation. Yet, in practice, there are definitely various examples predicated upon by tradition, economic situation, educational background especially of parents.

According to legal provisions, men and women enjoy equal rights concerning ownership and transactions of property. Although legally, they enjoy equal rights, the factual situation is different. Property, i.e. real estate is usually registered under the name of men. The reasons for such a situation can be found in traditions, customs, and in certain objective circumstances.

On the part of the Government, almost no educational campaigns are organized for the purposes of promoting equal rights for men and women within the family. This omission is fulfilled by the non-governmental sector which is very active in that field.

Women are not equal with men upon making financial decisions within the family, they are more inferior. This arises from the fact that in our country men are still in larger percentages those who financially provide the family. The situation in that respect is improving by the fact that in the past Macedonian women were employed, hence they were in a certain position to make decisions concerning financial issues.

Official registration is essential for the marriage to be legitimate. Engagement has no legal effect, but in practice, especially in rural environments, girls who have broken the engagement have smaller chances to get married especially to a bachelor. They are more often married to a divorced man or a widower (according to the information from focal groups).

Recommendation:

1. There is need to be introduced legal provision in the civil law to forbid contractual marriage or marriage entered into for the purpose of ensuring economic safety;
2. The state should undertake measures in order to increase access to abortion which is legitimate in R.Macedonia.
3. The state should undertake measures for awarness raising among the Romany population to register their marriages and specially to take into account the minors living together illegitimately;
4. There is a need to introduce measures to eliminate with the existing frequent practice to leave the estate to the male heirs, in spite of the fact that under the inheritance law both male and female siblings are equally entitled to this right;
5. The state to regulate the sexual intercourse of adults with minors at the age of 14 – 18 which at the moment is not forbidden and punishable.

Article 12

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

(a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;

(b) The improvement of all aspects of environmental and industrial hygiene;

(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;

(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

Areas of concern

§ There is a discrepancy between the urban and rural environments in terms of access to the health care system (information and services);

§ Improper functioning of the health care services that work on promotion of reproductive health and rights, in particular in rural environments and amongst the vulnerable groups such as people living in poverty, poorly educated people and the Romany population (family planning centres, women counselling offices, pregnancy and young mothers counselling.)

§ In certain regions, there is inadequate coverage with health protection for women, in the areas of women's and reproductive health (insufficient coverage with gynaecological practices, mammograms).

§ The state does not provide special measures of supporting motherhood or appropriate food during pregnancy and breast-feeding;

§ There are no special programs for protection of HIV-infected women – especially of pregnant women – to prevent discrimination against women and to improve their health status related to this disease.

§ There are no special/effective programs for raising awareness among young people for use of contraceptives or for changing traditional practices among certain ethnic groups, which leads to limitation of their sexual and reproductive rights by the state.

Legal conformity

The Constitution of the Republic of Macedonia provides that each citizen is guaranteed his/her right to health care. In addition, every citizen has both the right and the duty to preserve and promote his/her own health and the health of the other people. These constitutional provisions are embedded in the Law on Health Care and in the Law on Health Insurance. The Constitution of the

Republic of Macedonia guarantees the right to basic health care in the public sector notwithstanding the existence of the private health institutions.

By using the terms “citizen” and “everyone”, the law-maker does not differentiate between men and women as health service users. However, neither the Constitution nor the Law on Health Care contain specific provisions on prohibition of the discrimination of women in the area of health insurance as per the relevant Convention.

There are no provisions in the legislation of the Republic of Macedonia regulating the gender-based violence as a health problem, nor is training of health personnel in this topic envisaged.

Access to quality health services

Explicit provisions on the existence of quality health services and definition of the term “quality” are lacking, but the health care users have the right to file claims for a damage occurring as a result of mistakes or inappropriate treatment⁸, in accordance with the provisions of the Law on Obligations.

Providing voluntary, accessible, appropriate and affordable (even free of charge if necessary) services to women

There is no law in the Republic of Macedonia that requires the consent of the husband or the parents of a woman for using a certain health service. In emergency cases when the life of the patient is at risk, or when the patient is in such condition that she is not able to decide on her own, consent from her family is sought, and if such consent can not be provided, the intervention is undertaken based on the decision of two physicians–specialists in the respective surgical branch and in protection with regard to pregnancy and delivery.

If a woman (pregnant woman or a birth giving woman) has no health insurance, she is obliged to pay for all the health services at a price that is not means tested. There are no legal provisions providing for appropriate nutrition during pregnancy/breastfeeding.

Protection of women during pregnancy, delivery and the first 40 days after delivery

Under the Law on Health Care, which provides for special measures and activities for protection of women during pregnancy, delivery and the first 40 days after birth, a special Programme for Active Maternal and Child Health Care in the Republic of Macedonia is adopted. This programme provides for special protection of women during pregnancy, delivery, and the postnatal period. These are annual programmes adopted by the Government of the Republic of Macedonia.

⁸ Sanctions: A doctor who applies clearly inadequate means or manner of treatment, or does not apply proper hygienic measures, or in general, acts unscrupulously and as a result causes deterioration of the health status of other persons, shall be punished with a fine, or with imprisonment of up to three years.

The punishment referred to in the previous paragraph shall apply also for a midwife or some other health care worker who, when providing medical care, behaves unscrupulously and as a result causes deterioration of the health situation of other persons.

Provision of training and information to women or girls about their health, including their sexual and reproductive health

In order to facilitate the provision of primary and preventive health care by the health centres, the State undertakes measures and activities such as the adoption of annual programmes (Programme for Early Detection and Prevention of Diseases of Reproductive Organs in Women; Programme for Active Maternal and Child Health Care etc.).

Special Programme for Protection of HIV Infected Women

A General Programme for Protection of the Population against AIDS has been adopted in the Republic of Macedonia. This programme provides for measures and activities for protection of the population against AIDS, in accordance with the recommendations included in the relevant UN programme. One of the measures and activities is the training of the health workers and the health education activity.

Interruption of pregnancy

From a legal point of view, interruption of pregnancy is provided for in the 1977 Law on Pregnancy Interruption. It provides that by exception, pregnancy interruption may be done after the 10th week if the inception was a result of a criminal offence: rape, sexual abuse of incapable person, sexual abuse of a minor, sexual abuse based on abuse of the official post and incest.

Actual conformity

The decision to use health care belongs to the woman, but there are still certain social and/or cultural subgroups where women are denied this right.

According to the law, women in rural areas have equal access to health care as those in urban areas. However, in practice there are a lot of deviations from this legal provision.

The Ministry of Health has developed thirteen preventive programmes for health care for the year 2005, to be implemented by the health care providers. The activities specified in those programmes are available to all people in both urban and rural areas, irrespective of their gender, religion or ethnicity. These preventive programmes are however not enforced in practice.

The economic factor ranks No. 1 as obstacle for women to seek health care services. One should also mention the cultural and social barriers among Romany women. For example, if a Romany woman is not married or if she is divorced, she does not go to a gynaecologist from fear that something might be disclosed about her honour. A married Romany woman does not have a problem going to a gynaecologist by herself. Romany women still think that if they go to a psychiatrist, the environment will react in a bad manner, that they will be subject to gossip, labelled etc.

There is no difference in the treatment of women and men suffering from developmental impairments. It should be emphasized that this is a problem that is not receiving enough attention.

<Another important component for an overall national response to the HIV/AIDS epidemic is the functioning of the national Multisectoral Commission on HIV/AIDS, which brings together governmental sectors and civil society, but still is not fully inclusive. Especially the inclusion of

people living with HIV/AIDS need to be further enhanced. Ethnic distribution of HIV/AIDS reported cases in the Republic of Macedonia is the following: Macedonians 47.6 percent, ethnic Albanians 33.3 percent, Romany 11.1 percent, Turks 1.6 percent, Serb 1.6 percent, Macedonian Muslims 1.6 percent and foreigners 3.2 percent. The share of the Romany and to a lesser extent, ethnic Albanians, is significantly higher than their share in the total population. Some 69 percent of the reported cases are from urban areas and 31 percent from rural⁹.>

There is lack of education concerning the reproductive health of the women in the rural areas. Despite the existence of such campaigns or programmes, more attention should be paid to the organisation of meetings/lectures in the municipality buildings, where both doctors, but also women, and more importantly men, are invited. The latter would receive education through those lectures and counselling.

For the purpose of providing access to appropriate health care during pregnancy, delivery and motherhood, The State has established a special district health nursing service (“patronage” or home visits service) functioning under the health care providers in every town. The situation in the field indicates that there is partial coverage of the entire territory of the country with health institutions and district health nursing service.

Pregnancy termination is carried out in public health care providers and in other institutions that fulfil the legal requirements (gynaecological–obstetric hospitals). This intervention is very expensive and amounts to 4500,00 MKD or approximately 90 USD. The rate of abortions according to the European HFA database is 284 per 1000 live births. Account should also be taken of the large number of non-reported cases of abortion.

Besides the economic barriers, other barriers restricting the access of women to the various health care services related to their reproductive health include the traditional views. For example, in certain (Romany) communities there are some outdated views, such as asking the husband or the mother-in-law for permission to go to a gynaecologist, especially if both the husband and the wife are uneducated. Some women can't say “no” to the husband concerning the number of children they will have.

"There are also social barriers, which are linked to economic reasons. Even if a woman is willing to go to her gynaecologist several times she can't do that because she needs to travel to get there, leave her home, incur expenses etc. A cultural barrier worth mentioning that may be found in other populations is the case of women not allowed by their husbands to go to a gynaecologist by themselves, or to abort” – representative of a Romany organization.

The State does not take measures to include the concept of shared responsibility of both parents for raising their children with emphasis on education pertaining to family issues. There is a need for additional sensitisation of the general population with regard to this question.

In the Republic of Macedonia, violence against women, i.e. domestic violence, is not treated as a public health problem. There is no programme for women who have to cope with the health consequences of violence, including programmes for counselling women traumatized from armed conflicts.

⁹ Report of the Republic of Macedonia on MDGs, June 2005

All kinds of violence against women can be found in real life: sexual, physical, psychological, and economic violence.

Legal measures for preventing the violence against women: the Criminal Code incriminates domestic violence as well as matrimonial rape. In addition to these incriminations, the Criminal Code includes provisions that sanction gender-based violence. The Family Law provides for a variety of measures for protection of the victims of domestic violence. Criminal charges may be brought in case these provisions are violated. However, such cases are very rare in practice.

There are five shelters in the country for the victims of domestic violence, which are under the State with the exception of one that is under a non-governmental organization.

There are no special programmes for protection of rural women – victims of domestic violence.

Recommendations:

1. The state to increase access to the health care system (information and services) in the rural areas;
2. The state to provide adequate coverage with health protection for women, in the areas of women's and reproductive health through sufficient coverage with gynecological practices, mammograms, etc;
3. The state to provide special measures of supporting motherhood or appropriate food during pregnancy and breast-feeding;
4. There is a need to enact a law on sexual and reproductive health and rights;
5. The state to introduce special programs for protection of HIV-infected women – especially of pregnant women – to prevent discrimination against women and to improve their health status related to this disease;
6. The state to introduce special/effective programs for raising awareness among young people for use of contraceptives or for changing traditional practices among certain ethnic groups, which leads to limitation of their sexual and reproductive rights.

Article 13

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

(a) Primary education shall be compulsory and available free to all;

(b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;

(c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;

(d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;

(e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 14

Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

Areas of concern

- § The laws governing the field of education provide for anti-discriminative measures, though there are no penal provisions for those that fail to comply;
- § High illiteracy rate in particular amongst the Roma population and the need to take measures to ensure that they complete elementary education with a special emphasis on the most vulnerable groups;
- § Partial coverage of girls in elementary education, especially among Roma and high percentage of drop-outs in certain environments;
- § There are no special programs for girls and women who leave school prematurely, in particular for girls who live in rural environments, those who have a low social status and are members of some ethnic groups, such as the Roma and to a certain degree ethnic Albanians;
- § Educational programs are insufficiently present and the teaching methods are not adapted in such way that they might lead to the elimination of discrimination and traditional views;

Legal conformity

The Constitution guarantees the right to education, containing no norm prohibiting discrimination. No such prohibitive norms exist and in fact may not exist, as elementary education is mandatory. There are penalty provisions in the Law on Elementary Education against a failure to enroll the children and against their irregular attendance of school.

The most explicit prohibitive provision against discrimination is the one in the Law on Secondary Education, while there are no sanctions for non-compliance. The Law on Higher Education, on the other hand, prohibits any discrimination, postulating that citizens of the Republic of Macedonia are entitled to a right to higher education under the same conditions.

Scholarships

The Law on Standard of Pupils and Students foresees the use of scholarships and loans for pupils and students, making no male-female distinction, which means that they are entitled to the same right of usage provided that they meet the requirements defined in the law. This may be regular pupils and students, citizens of the Republic of Macedonia, who are selected by a public competition.

Adult education

The elementary education for adults in the country is regulated in the law on Elementary Education, which states that it may be organized in elementary schools, institutions for adult education and other institutions in accordance with the law, and is carried out as per separate curricula and syllabi issued by the Minister.

Education of individuals with special educational needs, i.e. impaired development

This issue is regulated in the laws on both elementary and secondary education. The laws make no distinction between male and female handicapped, but speak generally of education of individuals with special educational needs, i.e. impediments in their development; special programs are adopted and special schools or special classes within the regular schools are organized for the education of such individuals.

Actual conformity

The legislation provides equitable access to education for both the male and female population. Yet, it is not always so in practice¹⁰. The prejudice, traditions and stereotypes existing among certain ethnic communities are the reason behind the fact that girls complete only fourth or eighth grade and are kept at home once they finish school, to work in the agriculture or to take care of the household, but these are in a smaller number. In certain communities, male children have a priority when it comes to education.

In Roma communities, female children still attend school to a lesser extent than the boys. Recently, the situation is rather improved, but this is mostly true for the urban areas.

The following are obstacles preventing girls from attending or completing schooling: inaccessibility of schools in certain regions where children walk for a few hours to arrive to school (due to the fear of parents to let the girls alone over mountains), cultural and especially economic barriers, that is in cases when the parents may afford to finance the education of only one child, it is usually the male one (particularly so in the case of Roma's).

<Girls living in rural areas or those coming from lower social layers and/or belonging to certain ethnic groups such as Roma's and to a certain degree ethnic Albanians, are faced with the highest risk of dropping out of the educational system at the initial stage. The overall rate of reduction of those leaving school averages at below 2%, but in the case of the Roma population, this percentage is 10%.

Regarding the secondary education, there are difference in the level of inclusion of girls from various ethnic groups. The trend over the past four years indicates an increase in their number, except in the case of Roma's and Serbs.

It may be seen that the number of girls in the higher education is the same with the number of boys. At this level of education, the inclusion rate of students from the Roma population is considerably below the national average. As regards the total population of ethnic Albanians, it is believed that the recently established University of Southeastern Europe satisfies their needs of higher education and results in a significantly improved access for Albanian girls.¹¹>

¹⁰ Report of the Republic of Macedonia on the Millennium Development Goals, June 2005, the literacy rate in the Republic of Macedonia in 2002 was 96.38%. according to the data, there are 3.62% illiterate individuals in the country at the age of above 15, which is a drop in comparison with the illiteracy rate identified by the 1994 census, when the number of illiterate persons was 5.96%. Of the total number of illiterate individuals at the age of 15 or above, 76.41% are women. In 2002, the illiteracy rate among women of Macedonian nationality was 3.62%, it was 6.89% among women of Serbian nationality, 7.54% among Albanian women, 10.66% among those of Turkish nationality and 28.55% among Roma women.

¹¹ Report of the Republic of Macedonia on the Millennium Development Goals, June 2005

In the past, female children was deprived of access to certain educational institutions - such as the military and police academies. Nowadays, this practice is abandoned - the number of girl students at the military and police academy is growing. The only exception are the religious schools, which are male or female only. This is in accordance with the canonic rules.

In some traditional families, the girls are still encouraged to choose certain “female” professions or a school that is located in the immediate vicinity.

Pregnant students and young mothers continue their education on part-time basis.

The quality of education in terms of the curricula, teaching staff, school space and equipment are equal for both male and female children (they go to school together).

< In future, the state should undertake measures to improve the capacities, learning conditions and equipment in the schools, as well as the activities aimed at raising the quality of teaching. These measures are not only aimed at allowing for full inclusion of all children in the elementary education, but also at reducing the rate of early dropouts. The quality of education ought to be raised particularly in the rural areas, through additional benefits and professional advancement and further education of the teaching staff¹².>

For several years already, the Agency for Development of Education within the Ministry of Education, together with experts also involved in the work of the Council of Europe - Committee for Education, work on the introduction of the concept of gender equality in the curricula of the educational institutions in the country. Textbooks still contain content with traditional attitudes.

The contribution of women-leaders is to a certain degree included in learning the national and international history. The textbooks have very little content on the contribution of women in the fields of natural sciences, mathematics, literature, music and art.

Scholarships for pupils and students are granted on the basis of unique criteria and all dissatisfied parties (regardless of their gender) are entitled to the right to objection.

The additional education of women primarily depends on their need; for instance, if they need such education for the purpose of retaining their job. In case they want to enhance their educational level, they are faced with economic, political, social and cultural barriers.

Women, like men, have equal opportunities to be actively engaged in sports and physical education.

Recommendation:

1. The state should insist on consistent application of the law with regards to the compulsory nature of elementary education through proscription of sanctions against parents;
2. With respect to the career and occupational guidance for girls, there is a need for a functional link to be established with the labor market and the society in general;
3. It is necessary to ensure that information regarding education is made freely available so that assistance could be provided with respect to provision of welfare in the family (family health,

¹² Report of the Republic of Macedonia on the Millennium Development Goals, June 2005

sexually transmittable diseases and sexual violence), including information and advice on family planning;

4. The state should undertake activities to overcome the objective obstacles (secure transport for the pupils, free text books, established schools in certain environments etc.) which prevent girls from receiving education;

5. The state should increase activities regarding the education of persons with special needs, or persons with impaired development;