

Project: Factsheets on the Practice of the Human Rights Committee

Article 26, International Covenant on Civil and Political Rights

Equality before the Law, with a Focus on Discriminatory Laws against Women

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Article 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

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1. Introduction

Article 26 of the International Covenant on Civil and Political Rights (ICCPR or Covenant) guarantees equality of all persons before the law and is non-derogable.¹ It requires that all laws must be applied in an equal manner to all individuals subject to them without any discrimination or privilege.² Comparable provisions in other international instruments are Article 1 of Protocol 12 of the European Convention on Human Rights (ECHR), Article 24 of the American Convention on Human Rights (ACHR), and Article 3(1) and (2) of the African Charter on Human and Peoples' Rights (ACHPR).³ Article 26 requires that any form of discrimination must be prohibited by law, and all individuals must be equally and effectively protected by the law from any discrimination.⁴ Moreover, Article 26 requires ICCPR State parties to protect everyone from discrimination by private parties in quasi-public sectors, including employment, schools, transportation, hotels, restaurants, theatres, parks, beaches, housing, private education facilities, health sector, and those goods, services, and places intended for use by the general public.⁵

General Comment 18 has made it clear that Article 26 sometimes requires States parties to take affirmative action to diminish or eliminate conditions leading to discrimination prohibited by the ICCPR.⁶ Article 26 also guarantees equality regarding

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¹ Centre for Civil and Political Rights (CCPR Centre), *Simple Guide on The International Covenant on Civil and Political Rights (ICCPR) Article 26: Equality Before the Law*, available at <https://ccprcentre.org/simple-guide/pages/article-26.html> [accessed 10 May 2022] (CCPR Centre Simple Guide on Article 26).

² Niels Petersen, "The Implicit Taxonomy of the Equality Jurisprudence of the UN Human Rights Committee," *Leiden Journal of International Law* 34, no. 2 (June 2021): 421–40, <https://doi.org/10.1017/S092215652100008X>.

³ Paul M. Taylor, *A Commentary on the International Covenant on Civil and Political Rights* (New York: Cambridge University Press, 2020), 729.

⁴ CCPR Centre Simple Guide on Article 26.

⁵ *Ibid.*

⁶ UN Human Rights Committee (HRC), CCPR General Comment No. 18: Non-discrimination, 10 November 1989, available at: <https://www.refworld.org/docid/453883fa8.html> [accessed 10 May 2022].

administrative or legislative practices.⁷ It prohibits all legal administrators, including judges, from applying laws arbitrarily or discriminatorily.⁸

The ICCPR provides extensive prohibitions on discrimination in Article 2 and Article 26. Such protections are enhanced by Article 3 (prohibiting discrimination based on sex), Articles 4(1) (prohibiting discrimination regarding derogations), and Articles 23, 24, and 25, which prohibit discrimination regarding specific substantive rights.⁹ Notably, Article 26 is a free-standing guarantee of non-discrimination regarding all rights.¹⁰ Its application is not limited to the rights guaranteed by the ICCPR. The Committee has found a violation of article 26 in matters involving “discrimination based on suspect criteria of distinction, such as sex, citizenship, race, sexual orientation, or political opinion”.¹¹

This factsheet, reflecting the practice of the UN Human Rights Committee (Committee), is structured in five parts. The first part provides an introduction of Article 26. The prohibition of discrimination under the Covenant, including prohibited grounds of discrimination and the scope of Article 26 in relation to economic, social, and cultural rights are considered in the second part. This is followed by a discussion of the protection concerning discriminatory laws against women in the third part. The fourth part considers the obligation to educate and raise awareness regarding prohibition of discrimination under the Covenant. Finally, some concluding remarks are provided.

2. Prohibition of discrimination under the Covenant

The ICCPR provides three articles that prohibit discrimination: Article 2 considers rights protected by the ICCPR, Article 3 targets sex discrimination, and article 26 prohibits any discrimination against all rights.

ICCPR does not define “discrimination” nor does it indicate what constitutes

⁷ Petersen, “The Implicit Taxonomy of the Equality Jurisprudence of the UN Human Rights Committee.”

⁸ Sarah Joseph and Melissa Castan, *The International Covenant on Civil and Political Rights: Cases, Materials, and Commentary*, Third edition (Oxford, United Kingdom: Oxford University Press, 2013), 823 (Joseph and Castan, *ICCPR Commentary*).

⁹ Joseph and Castan, *ICCPR Commentary*, 760.

¹⁰ Joseph and Castan, *ICCPR Commentary*, 768.

¹¹ Petersen, “The Implicit Taxonomy of the Equality Jurisprudence of the UN Human Rights Committee.”

discrimination. General comment No. 18 of the Committee indicates that “discrimination” should be understood as “any distinction, exclusion, restriction or preference which is based on any ground ..., and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on equal footing, of all rights and freedoms”.¹²

The Committee specifies that enjoying rights “on equal footing” does not mean “identical treatment in every instance”.¹³ Sometimes, different treatment is necessary to achieve equality before the law. Thus, the Committee has pointed out that reasonable and objective distinctions are permissible. That is, proportionate measures designed to achieve a legitimate objective under the Covenant do not amount to a breach of this article.

2.1 Prohibited grounds of discrimination

The prohibited grounds of discrimination include race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth and other status. With the term “other status”, article 26 does not function as an exhaustive list regarding the prohibited grounds. Instead, it provides broad protection, and any form of discrimination before the law may be covered by the article. The Human Rights Committee has found a wide range of factors admissible, including age,¹⁴ nationality,¹⁵ marital status,¹⁶ places of residence within a state,¹⁷ a distinction between ‘foster’ and ‘natural’ children,¹⁸ and differentiation between students at public and private schools.¹⁹

¹² UN Human Rights Committee (HRC), CCPR General Comment No. 18: Non-discrimination,

¹³ UN Human Rights Committee (HRC), CCPR General Comment No. 18: Non-discrimination, para 8.

¹⁴ *Schmitz-de-Jong v Netherlands* (Communication No. 855/1999), *Love v Australia* (Communication No. 983/2001).

¹⁵ *Gueye v France* (Communication No. 196/1985), *Adam v Czech Republic* (Communication No. 586/1994), *Karakurt v Austria* (Communication No. 965/2000).

¹⁶ *Danning v Netherlands* (Communication No. 180/1984), *Sprenger v Netherlands* (Communication No. 395/1990), *Hoofdman v Netherlands* (Communication No. 602/1994).

¹⁷ *Lindgren et al v Sweden* (Communication No. 298–9/1988).

¹⁸ *Oulajin & Kaiss v Netherlands* (Communication No. 406, 426/1990).

¹⁹ *Blom v Sweden* (Communication No. 191/1985), *Lindgren et al v Sweden* (Communication No. 298–9/1988).

2.2 Prohibition of discrimination concerning economic, social, and cultural rights

This section deals with the prohibition of discrimination including concerning economic, social and cultural rights.²⁰ While the ICCPR primarily protects civil and political rights, the Committee has made it clear that the non-discrimination guarantee offered by Article 26 has an independent nature and is not restricted to the rights mentioned in the ICCPR. Therefore, Article 26 may be invoked also in cases considering discrimination in the enjoyment of economic, social, and cultural rights. The Committee has found complaints of discrimination in the enjoyment of various social and economic rights admissible, including retirement pensions,²¹ severance pay,²² unemployment benefits,²³ disability pensions,²⁴ education subsidies,²⁵ employment,²⁶ veterans' pensions,²⁷ public health insurance,²⁸ survivors' pensions,²⁹ children's benefits,³⁰ property rights,³¹ calculation of land rates,³² and calculation of taxable income³³. In *Zwaan-de Vries v. The Netherlands*, the jurisprudence of the ICCPR regarding rights covered by the International Covenant on Economic, Social, and Cultural Rights (ICESCR) was discussed. This case concerns the different treatment in the enjoyment of unemployment benefits on the ground of sex. The complainant was denied unemployment benefits because she was a married woman who was not the breadwinner of the family. Nevertheless, married men were able to

²⁰ Joseph and Castan, 769.

²¹ *Johannes Vos v Netherlands* (Communication No. 786/1997).

²² *Valenzuela v Peru* (Communication No. 309/1988).

²³ *Broeks, Zwaan-de-Vries v Netherlands* (Communication No. 182/1984), *Cavalcanti Araujo-Jongen v Netherlands* (Communication No. 418/1990), *García Pons v Spain* (Communication No. 454/1991).

²⁴ *Danning v Netherlands* (Communication No. 180/1984), *Vos v Netherlands* (Communication No. 218/1986).

²⁵ *Blom v Sweden* (Communication No. 191/1985), *Lindgren et al v Sweden* (Communication No. 298–9/1988), *Waldman v Canada* (Communication No. 694/1996).

²⁶ *Bwalya v Zambia* (Communication No. 314/1988), *Wackenheim v France* (Communication No. 854/1999).

²⁷ *Gueye et al v France* (Communication No. 196/1985).

²⁸ *Sprenger v Netherlands* (Communication No. 395/1990).

²⁹ *Pauger v Austria* (Communication No. 415/1990), *Pepels v Netherlands* (Communication No. 484/1991), *Hoofdman v Netherlands* (Communication No. 602/1994).

³⁰ *Oulajin & Kaiss v Netherlands* (Communication No. 406, 426/1990).

³¹ *Simunek v Czech Republic* (Communication No. 516/1992), *Adam v Czech Republic* (Communication No. 586/1994), *Haraldsson and Sveinsson v Iceland* (Communication No. 1306/2004).

³² *Pohl v Austria* (Communication No. 1160/2003).

³³ *Bartolomeu v Portugal* (Communication No. 1783/2008), *Gonçalves et al v Portugal* (Communication No. 1783/2008).

receive unemployment benefits, even if their wives were the main income earners of the family. The State party argued that the provisions of the ICESCR should not be rendered justiciable through an interpretation that imports them into Article 26 of the ICCPR. The Committee did not accept this view. Instead, the Committee stated that “the provisions of Article 2 of the ICESCR do not detract from the full application of Article 26 of the ICCPR.”³⁴

Notably, in matters considering social and economic rights, the Committee has concluded that while the ICCPR does not oblige States Parties to secure these rights, if a State decides to provide them, the enjoyment of such rights must be made available without discrimination. It is the discriminatory treatment that triggers Article 26. Equality before the law implies that any distinctions in the enjoyment of rights or benefits must be based on reasonable and objective criteria. In *Waldman v. Canada*, the complainant argued that Articles 2, 18, 26, and 27 of the ICCPR were breached by the State because, under the Education Act of Ontario, Roman Catholic schools were the only religious schools entitled to full and direct public funding. Other religious schools, including the private Jewish day school that the complainant’s children attended, did not receive the same funding. This matter is directly relevant to the right to education. While the Committee did not address the right to receive education, it was of the view that the law providing for full public funding only to Roman Catholic schools, but not to other religions schools was discriminatory.³⁵ The Committee emphasised that “the Covenant does not oblige States Parties to fund schools which are established on a religious basis. However, if a State Party chooses to provide public funding to religious schools, it should make this funding available without discrimination.”³⁶ Likewise, in *Garcia Pons v. Spain*, the Committee pointed out that “although the right to social security is not protected, as such, in the ICCPR, issues under the Covenant may nonetheless arise if the principle of equality contained in articles 14 and 26 of the Covenant is violated.”³⁷

³⁴ *Zwaan-de Vries v. The Netherlands* (Communication No. 182/1984), para. 12.1.

³⁵ *Waldman v. Canada* (Communication No. 694/1996), para. 10.6.

³⁶ *Waldman v. Canada* (Communication No. 694/1996), para. 10.6.

³⁷ *Garcia Pons v. Spain* (Communication No. 454/1991), para. 9.3.

Discriminatory treatment on the ground of sex was considered in *Johannes Vos v Netherlands*. The complainant argued that the different basis for calculation of the incorporation of the general pension into the civil service pension for married men and married women violates Article 26 of the ICCPR since 1 April 1985, when married women became entitled to their own general pension. The Committee found a breach of Article 26 because the pension paid to the complainant, a married male former civil servant, whose pension accrued before 1985 was lower than the pension paid to a married female former civil servant whose pension accrued at the same date.³⁸

3. Protection concerning discriminatory laws against women

Issues addressed under Article 26 of the ICCPR include the existence, character and implementation legislation prohibiting discrimination; discrimination in practice; discrimination under customary law; traditional, historical, cultural and religious practices impeding effective implementation of the Covenant; remedies for discrimination; specification of the grounds of discrimination and discrimination by law enforcement.³⁹ Article 26 of the ICCPR has been invoked to challenge a wide range of laws that treat women differently. As demonstrated below, the Committee has found a breach of Article 26 in complaints of discrimination against women in the law on right to family, the law of unemployment benefits, other laws treating married women less favourably based on sex, and abortion law. It can be observed that a violation is more likely to be established when the State party fails to provide a reasonable and objective justification for the differentiation.

The following subsections will address relevant considerations of Article 26, including indirect discrimination, law on the right to family, law on unemployment benefits, other laws treating married women less favorably based on sex, abortion law, hereditary title of nobility and discrimination on grounds of sex in social security legislation.

³⁸ *Johannes Vos v Netherlands* (Communication No. 786/1997), para. 7.4.

³⁹ Centre for Civil and Political Rights (CCPR Centre), *Simple Guide on The International Covenant on Civil and Political Rights (ICCPR) Article 26: Equality Before the Law*, available at <https://ccprcentre.org/simple-guide/pages/article-26.html>

3.1 Indirect discrimination

Indirect discrimination happens “when a practice, rule, requirement, or condition is neutral on its face but impacts disproportionately upon particular groups”.⁴⁰ Indirect discrimination generally arises when a law’s impact is discriminatory, rather than when discrimination is the declared purpose of the law.⁴¹ An example of indirect discrimination is presented in *Elena Genero v. Italy*, as discussed below. Cases concerning equality before the law usually involve arbitrary conduct by the public sector against a person instead of a group.⁴² Therefore, it requires consideration as to whether a claim about inequality before the law needs to establish a distinct “ground” upon which a person has been treated unequally.⁴³

In *Elena Genero v. Italy*,⁴⁴ the author complained that the Italian legislation which required that permanent firefighters must have a minimum height of 165cm constituted indirect discrimination against women. She noted that the average height of women in Italy was 161 cm, while the average height of men was 175 cm. By establishing a minimum height requirement well above the female average, Italy excluded most women from the competition based on their gender. The author also added that while a certain physical condition is necessary to perform firefighter duties, that condition is not exclusively attributable to height, but also to other physical parameters, such as corporal composition or muscular strength.

The Committee found violations of Article 26 and other provisions of the ICCPR. It noted that the undifferentiated minimum height requirement had the effect of denying a majority of Italian women access to the National Firefighters Corps, while such a requirement did not meet the criteria of reasonableness and objectivity.⁴⁵ The

⁴⁰ Joseph and Castan, *The International Covenant on Civil and Political Rights*, 777.

⁴¹ *Althammer v Austria* (Communication No. 998/2001); *Karnel Singh Bhinder v. Canada* (Communication No. 208/1986).

⁴² Petersen, “The Implicit Taxonomy of the Equality Jurisprudence of the UN Human Rights Committee.”

⁴³ *BdB et al v The Netherlands* (Communication No. 273/1988); *Fábryová v Czech Republic* (Communication No. 766/1997), *Kavanagh v Ireland* (Communication No. 819/1998), *O’Neill and Quinn v Ireland* (Communication No. 1314/2006).

⁴⁴ (Communication No. 2979/2017).

⁴⁵ *Elena Genero v. Italy* (Communication No. 2979/2017), para. 7.4.

Committee pointed out that the author had been successfully carrying out the same functions as a permanent member for 17 years, and that the State party had not provided a valid justification for imposing such a height requirement. The Committee concluded that the disproportionate effect this had on female candidates was a form of indirect discrimination based on gender in violation of Article 26 of the ICCPR.⁴⁶

3.2 Law on the right to family

In *Aumeeruddy-Cziffra et al v Mauritius*,⁴⁷ the authors were twenty Mauritian women. They complained that Mauritian immigration laws were discriminatory based on sex against Mauritian women because foreign wives could automatically receive residence rights in Mauritius, while foreign husbands could not. Although the Committee found that seventeen of the complainants were unmarried and therefore unaffected by the legislation in question, the Committee concluded that the future possibility of deportation and the existing precarious resident situation of foreign husbands in Mauritius represented an interference by the State with the family life of the remaining victims. The Committee held that any discrimination on the ground of sex within Mauritian legislation without sufficient justification was tantamount to a violation of articles 2 and 3 in conjunction with article 17, as well as direct violations of article 26 and 23.⁴⁸ The Committee recommended that Mauritius adjust the provisions of the Immigration (Amendment) Act and the Deportation (Amendment) Act in order to implement the State's obligations under the Covenant to prevent sex discrimination in its laws.⁴⁹

3.3 Law on unemployment benefits

In *Broeks v The Netherlands*,⁵⁰ the author complained that the existing law (the Unemployment Benefits Act) imposed an unreasonable differentiation based upon sex

⁴⁶ *Elena Genero v. Italy* (Communication No. 2979/2017), para. 7.6.

⁴⁷ (Communication No. 35/1978).

⁴⁸ *Aumeeruddy-Cziffra et al v Mauritius* (Communication No. 35/1978), para. 10.1.

⁴⁹ *Aumeeruddy-Cziffra et al v Mauritius* (Communication No. 35/1978), para. 11.

⁵⁰ Communication No. 172/1984, adopted on 9 April 1987.

and status and therefore violated Article 26 of the ICCPR. The author claimed that, if she were a man, married or unmarried, the law would not deprive her of unemployment benefits. Because she is a woman, and was married at the time in question, the law excluded her from continued unemployment benefits. The Committee found a violation of Article 26 and rejected the argument that social security payments should differ between men and women on the assumption that men are the “breadwinners”.⁵¹ The Committee stated that the differentiation placed married women at a disadvantageous position compared with married men and therefore constituted a breach of Article 26 of the ICCPR.⁵²

Such “breadwinner” laws were also found to violate Article 26 of the ICCPR in other cases.⁵³ In *Pauger v Austria*, the “breadwinner” notion suggested that widowed males were treated worse than widowed females under the Austrian Pension Act. The Committee found a violation of Article 26 in this regard.⁵⁴

3.4 Other laws treating married women less favorably based on sex

In *Müller and Engelhard v Namibia*,⁵⁵ the authors complained that the existing Namibian law breached Article 26 of the ICCPR, because it imposed a compulsory procedure of application to the state department for men wishing to assume their wife’s surname, while women who decided to assume their husbands’ surname did not have to follow the procedure. They submitted that this part of the law was discriminatory based on sex. The Committee found a violation of article 26 of the ICCPR as such differentiation was unreasonable and therefore amounted to discrimination based on sex. The Committee made it clear that, “In view of the importance of the principle of equality between men and women, the argument of a long-standing tradition cannot be maintained as a general justification for different treatment of men and women, which

⁵¹ *Broeks v The Netherlands* (Communication No. 172/1984), adopted on 9 April 1987, para. 14,15.

⁵² *Broeks v The Netherlands* (Communication No. 172/1984), adopted on 9 April 1987, para. 14,15.

⁵³ *Zwaan-de-Vries v Netherlands* (Communications No.182/1984) and *Pauger v Austria* (Communications No. 415/1990).

⁵⁴ Communications No. 415/1990, para 8.

⁵⁵ Communication No. 919/2000.

is contrary to the Covenant.”⁵⁶

In *McIvor and Grismer v. Canada*,⁵⁷ the author complained that the Canadian law which had the effect that an Indian woman who married a non-Indian man lost her status, while an Indian man who married a non-Indian woman gave his wife the status, was discriminatory based on sex. The Committee found that the distinction amounts to discrimination based on sex as the State party had failed to demonstrate that the stated aim was based on objective and reasonable grounds.⁵⁸ Therefore, it concluded that there were violations of Article 26 and other articles of the ICCPR.⁵⁹

3.5 Abortion law

In *Mellet v. Ireland*,⁶⁰ the author was informed by her doctor that her pregnancy involved a fatal fetal impairment. Upon receiving the information, the author discovered that the prospect of continuing her pregnancy was unbearable and chose to undertake an abortion. Nevertheless, Irish law only allowed abortions for women whose pregnancies threatened their lives. The author, therefore, had to end her pregnancy overseas (in the United Kingdom) at her own expense. The author later filed a complaint to the Human Rights Committee, claiming that the Irish law that forced a woman whose fetus had congenital heart defects (and a low chance of survival) to procure an abortion overseas contravened the ICCPR. The Committee found that Articles 7, 17, and 26 of the ICCPR were breached and the Irish government should pay compensation to the author and provide her with needed psychological treatment. Regarding Article 26, the Committee considered that by affording treatment and care to women who carry a foetus with a fatal impairment to term and not to women who choose to terminate a non-viable pregnancy, Ireland’s laws did not meet the requirements of reasonableness, objectivity, and legitimacy of purpose and thus constituted discrimination under Article 26 of the ICCPR.⁶¹ The Committee also recommended that Ireland amend its laws on

⁵⁶ Communication No. 919/2000, para 6.8.

⁵⁷ Communication No. 2020/2010.

⁵⁸ Communication No. 2020/2010, para 7.11.

⁵⁹ Communication No. 2020/2010, para 7.11.

⁶⁰ Communication No. 2324/2013.

⁶¹ Communication No. 2324/2013, para 7.11 and 8.

voluntary termination, and if necessary its constitution, to ensure compliance with the ICCPR.⁶²

3.6 Hereditary title of nobility

The *Martinez de Irujo v Spain*⁶³ case concerned the fact that the daughter of a deceased duke was unable to succeed in her father's various ranks and titles as they went instead to her younger brother. She argued that the inherent sex discrimination relating to the inheritance of titles of nobility breached Article 26. The Committee found the claim to be inadmissible. It considered that Article 26 could not be invoked in support of claiming a hereditary title of nobility, an institution that, due to its indivisible and exclusive nature, lies outside the underlying values behind the principles of equality before the law and non-discrimination protected by Article 26.⁶⁴

3.7 Discrimination on grounds of sex in social security legislation

The Committee's practice indicates that it is less likely to establish discrimination where a complaint considers social security legislation, including matters alleging discrimination based on sex. The Committee's findings in this regard have been inconsistent, while they have contributed to interpreting Article 26 as an autonomous right.⁶⁵ Despite the inconsistency, it seems that the Committee is now placing a greater burden on the State Party to explain and justify laws that differentiate individuals based on sex.⁶⁶ Clearly, the Committee is adopting an approach that progressively takes account of all protected rights covered by Article 26.⁶⁷

⁶² Communication No. 2324/2013, para 9. See also Concluding observations on the fourth periodic report of Ireland, Ireland, CCPR/C/IRL/CO/4 (2014), para 9.

⁶³ Communication No. 1008/2001.

⁶⁴ Communication No. 1008/2001, para 6.5.

⁶⁵ Taylor, *A Commentary on the International Covenant on Civil and Political Rights*, 755. Some relevant cases include *Araujo-Jongen v. Netherlands* (Communication No. 418/1990); *J.A.M.B.-R. v. Netherlands* (Communication No. 477/1991); *Hoofdman v. Netherlands* (Communication No. 602/1994); *M.T. Sprenger v. Netherlands* (Communication No. 395/1990)

⁶⁶ Taylor, 755.

⁶⁷ Taylor, 755.

4. Obligation to educate and raise awareness

In General Comment 4, the Committee mentions that the positive enjoyment of rights under articles 2(1), 3, and 26 “cannot be done simply by enacting laws”.⁶⁸ This may impose an obligation to take positive, extra-legal measures to eliminate discrimination. Such methods should include educational duties to, for instance, address stereotypical perceptions. Promotional or educational obligations are vital in combating discrimination. As the Committee has stated, educational duties “are necessary to overcome remaining obstacles to equality, such as outdated attitudes concerning the role and status of women”⁶⁹. This issue is generally taken up by the Committee during the State reporting procedure and included in relevant concluding observations with specific recommendations for the State party.

5. Concluding remarks

The scope of Article 26 of the ICCPR is relatively broad compared with other provisions of the ICCPR. Cases addressed by the Committee have shown that any law that treats certain groups of individuals differently without an objective and reasonable justification may constitute a breach of the article, no matter what right is under consideration. While the ICCPR may not guarantee the enjoyment of the right in question, it is the discriminatory treatment that contravenes the non-discrimination clause. With Article 3, which prohibits discrimination based on sex, Article 26 has been further used to challenge laws that treat women less favourably. It appears that the combined operation of these two articles facilitates gender equality in a rather holistic manner. Further, it should be noted that Article 26 could entail an obligation to educate and raise awareness among the public so as to eliminate discrimination when circumstances require such measures to be taken. While a failure by a State party to do so may result in a breach of the Covenant, such an issue would most likely be taken up as part of the State reporting procedure, instead of in individual communications.

⁶⁸ HRC, CCPR General Comment No. 4: Article 3 (Equal Right of Men and Women to the Enjoyment of All Civil and Political Rights), 30 July 1981.

⁶⁹ HRC, Concluding observations of the Human Rights Committee, Mauritius, CCPR/C/79/Add.60.

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