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DECONSTRUCTING CEDAW'S ARTICLE 14: NAMING AND EXPLAINING RURAL DIFFERENCE

LISA R. PRUITT*

- I. A SHORT PRIMER ON CEDAW
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The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is the first human rights instrument to recognize explicitly rural-urban difference.¹ It does so by enumerating specific rights for rural women in Article 14 and also by mentioning their needs in relation to Article 10 on education. This article's goals are modest: to examine the *Travaux Préparatoires* to better understand the forces and considerations that led to the inclusion of Article 14; to assess Article 14's particular mandates in light of both its drafting history and CEDAW's other provisions; and to consider the assumptions implicit in this expression of rural exceptionalism. I offer some thoughts on the expressive significance of both the explicit acknowledgment of rural women—and, by extension, rural populations—in this widely ratified human rights treaty and the particular rights it accords to rural women. That is, I discuss what CEDAW implies about the character of rurality and rural-urban difference. I also argue that CEDAW provides a framework for spatial equality, in concert with the more obvious and comprehensive structure for gender equality. I thus seek to fill a void in the legal scholarship on CEDAW, which often mentions Article 14 in inventories of the Convention's provisions, but which has largely ignored both its meaning and significance.²

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1. Convention on the Elimination of All Forms of Discrimination against Women, Dec. 18, 1979, 1249 U.N.T.S. 13 [hereinafter CEDAW], available at <http://www.un.org/womenwatch/daw/cedaw/text/econvention/htm>. Since CEDAW was drafted and adopted, other human rights instruments have specifically enumerated rights for rural populations. See *infra* notes 267-77 and accompanying text.

2. E.g., Noreen Burrows, *The 1979 Convention on the Elimination of All Forms of Discrimination Against Women*, 32 NETH. INT'L L. REV. 419, 446-48 (1985); Jo Lynn

I. A SHORT PRIMER ON CEDAW

Drafting of CEDAW began in the 1970s, and the U.N. General Assembly adopted the Convention in 1979.³ Upon ratification by twenty member states, the Convention entered into force in 1981.⁴ Among the 192 United Nations members, 186 have ratified CEDAW.⁵ Notable among nations that have not ratified the Convention is the United States.⁶

CEDAW is variously called “[T]he [W]omen’s [C]onvention,”⁷ an “international bill of rights for women,”⁸ and even a “Magna Carta

Southard, *Protection of Women’s Human Rights Under the Convention on the Elimination of All Forms of Discrimination Against Women*, 8 PACE INT’L L. REV. 1, 83-85 (1996). *But see, e.g.*, Aida González Martínez, *Rights of Rural Women: Examples from Latin America*, in THE CIRCLE OF EMPOWERMENT: TWENTY-FIVE YEARS OF THE UN COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN 212, 213-22 (Hanna Beate Schöpp-Schilling & Cees Flinterman eds., 2007) [hereinafter Martínez, *Rights of Rural Women*] (listing responses by Latin American nations to Article 14); Johanna E. Bond, *Gender, Discourse, and Customary Law in Africa*, 83 S. CAL. L. REV. 509 *passim* (2010) (referring repeatedly to the salience of the rural-urban axis in relation to the authority of customary law and traditional leaders and also noting the more prominent role of elite urban women in drafting international human rights treaties such as CEDAW and the African Protocol); Lisa R. Pruitt, *Migration, Development and the Promise of CEDAW for Rural Women*, 30 MICH. J. INT’L L. 707, 728-49 (2009) [hereinafter Pruitt, *Migration, Development*] (discussing how four countries have responded to their Article 14 commitments); Claude E. Welch, Jr., *Human Rights and African Women: A Comparison of Protection Under Two Major Treaties*, 15 HUM. RTS. Q. 549, 556-64 (1993) (analyzing CEDAW’s effect on rural African women).

3. *Short History of CEDAW Convention*, UNITED NATIONS DIV. FOR THE ADVANCEMENT OF WOMEN, <http://www.un.org/womenwatch/daw/cedaw/history.htm> (last visited Jan. 31, 2011). Note that at least one author has characterized CEDAW’s drafting as “under the auspices of the male-dominated United Nations.” Southard, *supra* note 2, at 7.

4. *Short History of CEDAW Convention*, *supra* note 3.

5. Ratification, Accessions and Successions Status of Convention on the Elimination of All Forms of Discrimination against Women, UNITED NATIONS TREATY COLLECTION [hereinafter Ratification], http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-8&chapter=4&lang=en (last visited Jan. 31, 2011).

6. *Id.* This failure to ratify CEDAW is widely attributed to domestic political resistance to CEDAW’s provisions regarding access to family planning services. *See* Lainie Rutkow & Joshua T. Lozman, *Suffer the Children?: A Call for United States Ratification of the United Nations Convention on the Rights of the Child*, 19 HARV. HUM. RTS. J. 161, 168-69 (2006) (discussing opposition to CEDAW by U.S. anti-abortion groups). *But see* Rebecca L. Hillock, *Establishing the Rights of Women Globally: Has the United Nations Convention on the Elimination of All Forms of Discrimination Against Women Made a Difference?*, 12 TULSA J. COMP. & INT’L L. 481, 511-13 (2004-05) (arguing that CEDAW reflects a radical feminist agenda and that it is inconsistent with the United States’ democratic form of government and processes).

7. *See, e.g.*, Christine Min Wotipka & Francisco O. Ramirez, *World Society and Human Rights: An Event History Analysis of the Convention on the Elimination of All Forms of Discrimination Against Women*, in THE GLOBAL DIFFUSION OF MARKETS AND DEMOCRACY 303, 305 (Beth A. Simmons et al. eds., 2008).

8. Hillock, *supra* note 6, at 500 (citing Harold Hongju Koh, *Why America Should Ratify the Women’s Rights Treaty (CEDAW)*, 34 CASE W. RES. J. INT’L L. 263, 266 (2002));

for women,”⁹ all terms that refer to women’s notable absence from pre-CEDAW international human rights instruments. The Convention’s mandate is extraordinarily broad,¹⁰ calling for member states to eliminate direct or indirect discrimination in both the public and private spheres of life,¹¹ to improve women’s *de facto* position within society,¹² and “[t]o modify the social and cultural patterns . . . based on the idea of the inferiority or the superiority of either of the sexes.”¹³ The Convention’s definition of discrimination against women is similarly broad:

[A]ny distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.¹⁴

The phrase “on a basis of equality of men and women” is repeated in many Articles of the Convention.¹⁵ Article 5 even challenges member states to take steps to end gender stereotyping.¹⁶

Elizabeth Evatt, *Eliminating Discrimination Against Women: The Impact of the UN Convention*, 18 MELB. U. L. REV. 435, 435 (1991-92); *Overview of the Convention*, UNITED NATIONS DIV. FOR THE ADVANCEMENT OF WOMEN, <http://www.un.org/womenwatch/daw/cedaw/index.html> (last visited Jan. 31, 2011).

9. Leilani Farha, *Committee on the Elimination of Discrimination Against Women: Women Claiming Economic, Social and Cultural Rights—The CEDAW Potential*, in *SOCIAL RIGHTS JURISPRUDENCE: EMERGING TRENDS IN INTERNATIONAL AND COMPARATIVE LAW* 553, 554 (Malcolm Langford ed., 2009) (quoting STEPHEN LEWIS, *RACE AGAINST TIME: SEARCHING FOR HOPE IN AIDS-RAVAGED AFRICA* 112-13 (2005) (lauding CEDAW’s great potential influence and its aggressive assertion of equality throughout)).

10. The Convention is broad not only in its substantive provisions, but also in its expectations of member states’ enforcement of rights. See Simone Cusack & Rebecca J. Cook, *Combating Discrimination Based on Sex and Gender*, in *INTERNATIONAL PROTECTION OF HUMAN RIGHTS: A TEXTBOOK* 205, 206-07 (Catarina Krause & Martin Scheinen eds., 2009) (providing background and overview of the Convention); Rebecca J. Cook, *State Accountability Under the Convention on the Elimination of All Forms of Discrimination Against Women*, in *HUMAN RIGHTS OF WOMEN: NATIONAL AND INTERNATIONAL PERSPECTIVES* 228, 236-37, 246 (1994) (discussing member states’ obligations to end discrimination by private actors as well as in domestic constitutions and laws).

11. CEDAW, *supra* note 1, art. 2(d)-(e).

12. *Id.* art. 4 (sanctioning affirmative action as a means to achieve “*de facto* equality between men and women”); see also *id.* art. 2(a) (referring to “practical realization of [the equality] principle”).

13. *Id.* art. 5(a).

14. *Id.* art. 1.

15. *Id.* art. 1, 10, 11(1), 12(1), 13, 14(2), 16(1). Article 2(c) says “rights of women on an equal basis with men.” Article 3 features the language, “on a basis of equality with men.” Articles 7 and 8 use the phrase, “on equal terms with men.”

16. *Id.* art. 5.

In addition to its general goal of equality between men and women,¹⁷ CEDAW specifies a range of civil and political rights for women, as well as some that would be best characterized as socio-economic rights. These include the right to good quality education;¹⁸ the right to comprehensive health services, including family planning;¹⁹ the right to have equal access to jobs, benefits, and social security;²⁰ the right to be free from all forms of trafficking and prostitution;²¹ the right to vote, run for election and hold public office;²² the right to represent the country internationally;²³ and the right to participate in recreational activities such as sports.²⁴ CEDAW thus enumerates a series of “rights” that often have the ring of opportunities and public services that women may have a history of struggling to get, or that may be denied (or historically have been denied) them on the basis of their gender. That is, the items listed presumably stem from identified common challenges that women, past and present, face.²⁵ It also serves as a list of that which is deemed important, from a fundamental human rights perspective.²⁶

Article 14 of CEDAW evinces a concern about gender as it intersects with rurality.²⁷ Recent human rights instruments permit “a growing number of types of individual persons [to] press for their human rights: women, children, ethnic minorities, indigenous peoples,

17. Darren Rosenblum has analyzed extensively whether CEDAW's goal is or should be gender equality or women's equality. Darren Rosenblum, *Unsex CEDAW*, 20.1 COLUM. J. GENDER & L. (forthcoming 2011).

18. CEDAW, *supra* note 1, art. 10.

19. *Id.* art. 12.

20. *Id.* art. 11.

21. *Id.* art. 6.

22. *Id.* art. 7.

23. *Id.* art. 8.

24. CEDAW, *supra* note 1, art. 13(c).

25. See Afra Afsharipour, *Empowering Ourselves: The Role of Women's NGOs in the Enforcement of the Women's Convention*, 99 COLUM. L. REV. 129, 130 n.4 (1999) (writing that “women's human rights arose out of the need for women to argue for the universality of their rights as defined by them, highlighting those aspects of women's experiences which are universal or find their roots in universal patterns of discrimination against women”).

26. Indeed, the list is quite similar to the list of capabilities developed by Martha Nussbaum. See MARTHA C. NUSSBAUM, *WOMEN AND HUMAN DEVELOPMENT: THE CAPABILITIES APPROACH* 78-80 (2000) [hereinafter NUSSBAUM, *WOMEN AND HUMAN DEVELOPMENT*] (listing capabilities, including bodily health, education, autonomy); *id.* at 106-07 (telling story of Vasanti, which illustrates women's need for access to credit); *id.* at 302 (listing the goals of a women's collective in Andhra Pradesh, India).

27. See Marsha A. Freeman, *Women, Development and Justice: Using the International Convention on Women's Rights*, in OURS BY RIGHT: WOMEN'S RIGHTS AS HUMAN RIGHTS 93, 98 (Joanna Kerr ed., 1993) (calling Article 14 “unique as a statement of human rights because it emphasizes the rights of a particular sub-group to which special attention should be paid”).

gays and lesbians, the elderly, the disabled, and the imprisoned.”²⁸ CEDAW adds geography or place to the list of types or categories recognized as a basis for disadvantage or discrimination.²⁹

Some of the needs and rights enumerated in Article 14 appear to be related to rurality itself, as well as to associated livelihoods such as agriculture.³⁰ Some appear to recognize the less developed and perhaps more patriarchal character of rural places.³¹ Still others repeat and/or tailor for rural women rights articulated elsewhere in the Convention for all women, such as education.³² Indeed, Article 14 sometimes appears to scale back or diminish for rural women the robustness and detail of a right recognized elsewhere in CEDAW, perhaps setting a lower or different standard for these same rights in rural contexts.³³

In part because of its explicit attention to rural women, CEDAW has been labeled “visionary” in its approach to “addressing the systemic inequities facing women.”³⁴ Another commentator has called Article 14 “a more realistic approach to the whole question of women’s rights at the international level,” and suggested that it evinces a “flexible attitude” in defining “the scope of women’s rights.”³⁵ Further,

28. Wotipka & Ramirez, *supra* note 7, at 303. *See also* Aída González Martínez, *Human Rights of Women*, 5 WASH. U. J.L. & POL’Y 157, 171 (2001) (referring to Article 14 as “a recognition that [rural women] constitute a group that faces specific problems and that requires special attention”). This focus on group membership reflects the so-called third generation of human rights. Hilary Charlesworth, *What are “Women’s International Human Rights”?*, in HUMAN RIGHTS OF WOMEN: NATIONAL AND INTERNATIONAL PERSPECTIVES 58, 58 (1994).

29. CEDAW, *supra* note 1, art. 14.

30. These include agricultural credit and extension services, for example. *Id.* art. 14(2)(g). “Extension services” refers to expert advice regarding farming techniques. These services are often provided by the State, but may also be delivered by NGOs. *See* WORLD BANK ET AL., GENDER IN AGRICULTURE SOURCEBOOK 257, 265 (2009) [hereinafter SOURCEBOOK] (describing extension services as providing information and training); *see also Extension*, U.S. DEP’T OF AGRIC., <http://www.csrees.usda.gov/qlinks/extension.html> (last visited Jan. 31, 2011) (describing extension services provided by the U.S. Department of Agriculture to farmers in the United States).

Other than agriculture and associated activities, such as food processing and marketing, “crafts” are mentioned in U.N. documents as a rural livelihood. U.N. Secretary-General, *United Nations Decade for Women: Equality, Development and Peace: Women in Rural Areas: Rep. of the Secretary-General*, ¶ 17, U.N. Doc. A/32/269 (Oct. 18, 1977) [hereinafter A/32/269]. The same document also refers to “the traditional and modern sectors of the economy” in relation to rural women, but it does not elaborate on the meaning of these terms. *Id.* ¶ 13.

31. *See infra* notes 195-206 and accompanying text.

32. CEDAW, *supra* note 1, art. 10. *See also infra* notes 155-64 and accompanying text (discussing whether rural women are entitled to the same standard of education as non-rural women, or whether CEDAW establishes lower expectations for them).

33. *See infra* Part IV.

34. Southard, *supra* note 2, at 83.

35. Burrows, *supra* note 2, at 447.

Article 14's inclusion of rural women has been hailed as "a milestone in the development of legal provisions which aim to improve the situation of the bulk of the world female population."³⁶

By naming rural women as a distinct population, CEDAW might be thought of as an example of rural exceptionalism. It moves beyond the implicit focus on urban populations that characterizes a great deal of contemporary law making.³⁷ In fact, the drafters' decision to enumerate rights for rural women as a group may have been an implicit recognition of our world's increasing metrocentricity. While the world's population only became more rural than urban in 2008,³⁸ the urban migration juggernaut has been in process, gaining force, for decades. Indeed, a 1977 document that influenced the inclusion of rural women's concerns within CEDAW articulated the need to stem migration to urban areas as a principal reason for integrating women into rural development.³⁹ Worldwide, almost 800

36. *Id.* Elsewhere Burrows writes: "For most women, what it is to be human is to work long hours in agriculture or in the home, to receive little or no remuneration, and to be faced with political and legal processes which ignore their contribution to society and accord no recognition of their particular needs." Noreen Burrows, *International Law and Human Rights: The Case of Women's Rights*, in HUMAN RIGHTS: FROM RHETORIC TO REALITY 80, 82 (Tom Campbell et al. eds., 1986).

37. Certainly, this appears to be the case in U.S. law. *See, e.g.*, Katherine Porter, *Going Broke the Hard Way: The Economics of Rural Failure*, 2005 WIS. L. REV. 969, 982-85 (2005) (discussing policymakers' failure to consider rural U.S. populations); Lisa R. Pruitt, *Rural Rhetoric*, 39 CONN. L. REV. 159, 236-40 (2006) (noting judicial failures to consider or understand rural populations).

38. *See* Lisa Pruitt, *Did the World Become More Urban Than Rural Yesterday?*, LEGAL RURALISM BLOG (Dec. 17, 2008, 7:38 PM), <http://legalruralism.blogspot.com/2008/12/yesterday-was-one-of-those-days.html> (reporting Professor Ronald C. Wimberley's post to the Rural Studies listserv of the Rural Sociological Society). The United States became more urban than rural almost a century ago, as marked by the 1920 census. *See* Roger A. Lohmann & Nancy Lohmann, *Introduction to RURAL SOCIAL WORK PRACTICE*, at xi, xv, xvi (2005) (tracking the conversion of the U.S. population from rural to urban as reflected in each decennial census between 1900 and 2000).

39. A/32/269, *supra* note 30, ¶ 19. The paragraph states in part:

Among the many measures recommended for the incorporation of women in active economic, political, social and cultural life were the need to formulate and execute integrated government planning policies that provide for effective integration of women in rural development with a view to reducing their migration to urban areas, which only worsens the problem of marginality; the need to draw up government development plans that include training and vocational education courses for women in rural and urban areas; to promote the increased participation of women in agricultural co-operative activities thus contributing to a more effective role of women in food production, higher community earning, larger self-help programmes and improved standards of living; to include in development plans provisions for programmes to train women in the techniques of the production, processing and marketing of rural products; to furnish women of rural and indigenous areas with meaningful apprenticeship for meeting the priority needs of the community.

Id.

million people have moved from rural areas to urban ones in the last half century.⁴⁰

Alternatively, CEDAW's articulation of rural difference might be viewed as a recognition of the developing world in its entirety because the majority of the developing world's population is rural.⁴¹ Nowhere does CEDAW define "rural," yet the term is in many ways synonymous with "undeveloped,"⁴² and at least one nation, Chad, made this link explicit during the Convention's drafting.⁴³ Ninety percent of

40. See Pruitt, *Migration, Development*, *supra* note 2, at 710 (citing Press Release, Food and Agric. Org. of the United Nations, Farm Investment Helps Slow Migration (June 2, 2006), <http://www.FAO.org/newsroom/en/news/2006/1000313/index.html>).

41. See *id.* at 711 (citing U.N. DEPT OF ECON. & SOC. AFFAIRS, POPULATION DIV., URBAN AND RURAL AREAS 2007, U.N. Doc. ST/ESA/SER.A/276, U.N. Sales No. E.08.XIII.13 (2008)). "In 2007, 56.2% of those living in less developed regions lived in rural areas." *Id.* "This number is expected to fall to 44% by 2025." *Id.* (citing U.N. DEPT OF ECON. & SOC. AFFAIRS, POPULATION DIV., WORLD URBANIZATION PROSPECTS: THE 2007 REVISION, EXECUTIVE SUMMARY (2007), http://www.un.org/esa/population/publications/wup2007/2007WUP_Exec_Sum_web.pdf). In India, for example, only one-third of the population live in urban areas, although that number is expected to increase. Lisa R. Pruitt, *Human Rights and Development for India's Rural Remnant: A Capabilities-Based Assessment*, 44 U.C. DAVIS L. REV. (forthcoming 2011) [hereinafter Pruitt, *India's Rural Remnant*]; Pruitt, *Migration, Development*, *supra* note 2, at 710-22 (providing additional data and discussing the phenomenon of rural-to-urban migration in the developing world).

42. See Marc Mormont, *Who is Rural? or, How to be Rural: Towards a Sociology of the Rural*, in RURAL RESTRUCTURING: GLOBAL PROCESSES AND THEIR RESPONSES 21, 28 (Terry Marsden et al. eds., 1990) (writing that "[i]t was taken for granted" in rural sociology "that its subject was the least developed regions and least integrated areas"). But see Lisa R. Pruitt, *Gender, Geography & Rural Justice*, 23 BERKELEY J. GENDER L. & JUST. 338, 344-48 & nn.43-44 (2008) [hereinafter Pruitt, *Gender, Geography*] (discussing the contested meaning of "rural" and rurality in relation to development) (citing Stephens v. Raleigh Cnty. Bd. of Educ., 257 S.E.2d 175, 180 (W. Va. 1979)); but see also A/32/269, *supra* note 30, ¶¶ 5, 13, 15 (linking rural women with poor urban women in terms of their needs); Burrows, *supra* note 2, at 447-48 (noting Article 14's relevance to countries at different stages of development); Welch, *supra* note 2, at 555-56 (noting the *de facto* barriers to women's equality in rural places in Africa, as well as the serious problems women face "due to traditional land tenure systems, inheritance practices, and lack of capital," but observing that "conditions are not significantly better" in urban areas in Africa). Indeed, during the drafting of Article 14, Argentina proposed that it be more comprehensive to cover "both women in rural areas and disadvantaged population groups in rural and urban areas." LARS ADAM REHOF, GUIDE TO THE TRAVAUX PRÉPARATOIRES OF THE UNITED NATIONS CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN 156 (1993) (citing U.N. Secretary-General, *United Nations Decade for Women: Equality, Development and Peace: Draft Convention on the Elimination of Discrimination against Women: Rep. of the Secretary-General: Addendum*, ¶ 44, U.N. Doc. A/32/218/Add.1 (Oct. 12, 1977)). Hungary, on the other hand, thought it should be limited to rural women. *Id.* (citing U.N. Secretary-General, *United Nations Decade for Women: Equality, Development and Peace: Draft Convention on the Elimination of Discrimination against Women: Rep. of the Secretary-General: Addendum*, ¶¶ 15-16, U.N. Doc. A/32/218/Add.2 (Oct. 28, 1977)).

43. See REHOF, *supra* note 42, at 156 (citing U.N. Secretary-General, *United Nations Decade for Women: Equality, Development and Peace: Draft Convention on the Elimination of Discrimination against Women: Rep. of the Secretary-General: Addendum*, ¶¶ 15-16,

the world's rural population lives in the developing world.⁴⁴ Rural development implicates human rights, particularly those of the socio-economic variety.⁴⁵ Setting apart women in the developing world—for the rights enumerated in Article 14 might not have been as politically palatable as singling out rural women. This is because the former designates women in a certain type of nation state, while the latter exist in virtually all nation states. Nevertheless, some documents related to CEDAW's drafting suggest that one of Article 14's goals was to narrow the gap between the developed and developing world.⁴⁶ The relationship between undeveloped/developing and rural implicates the expressive significance of including an entire article about rural women in a major human rights treaty, as well as what Article 14's detailed provisions suggest about the meaning or character of the rural. I take up these matters more fully below.⁴⁷

U.N. Doc. A/32/218/Add.2 (Oct. 28, 1977)) (stating "Chad said that this article was important for developing countries").

44. U.N. DEPT OF ECON. & SOC. AFFAIRS, POPULATION DIV., RURAL POPULATION, DEVELOPMENT AND THE ENVIRONMENT 2007, U.N. Doc. ST/ESA/SER.A/275, U.N. Sales No. E.08.XIII.10 (2007) [hereinafter RURAL POPULATION 2007]. "The U.N. Population Division defines the percentage of rural populations as the '[p]roportion of the midyear de facto population living in areas not classified as urban according to the criteria used by each country or area.'" Pruitt, *Migration, Development*, *supra* note 2, at 709 n.4 (quoting RURAL POPULATION 2007, *supra* note 44, at n.7). "The United Nations calculates rural and urban populations using national statistical sources based on the 'urban' criteria used by each country or area." *Id.* See also Martin Ravallion et al., *New Evidence on the Urbanization of Global Poverty 2-4* (World Bank, Policy Research Working Paper No. 4199, 2007), available at http://siteresources.worldbank.org/INTWDR2008/Resources/2795087-1191427986785/RavallionMEtAl_UrbanizationOfGlobalPoverty.pdf (discussing the challenges and inconsistencies with the differing definitions of rural and urban).

45. See Andrew C. Byrnes, *The "Other" Human Rights Treaty Body: The Work of the Committee on the Elimination of Discrimination Against Women*, 14 YALE J. INT'L L. 1, 3 (1989) (observing that "[t]he most sustained interest in the Convention and the Committee has been among those . . . interested in the human rights of women or the role of women in development") (citing Rebecca Cook, *The International Right to Nondiscrimination on the Basis of Sex*, 14 YALE J. INT'L L. 161 (1989)); see also Pruitt, *India's Rural Remnant*, *supra* note 41 (discussing universal human rights in relation to India's rural development).

46. REHOF, *supra* note 42, at 153. Rehof states that "[w]omen's involvement in development (. . . narrowing the gap between developed and developing countries . . .) was discussed relative to the preamble and subsequent articles," but he does not specify whether he refers to CEDAW's preamble or something else. *Id.* The language he quotes is not included in the Preamble to CEDAW, which makes reference to development only twice. In paragraph 7, it refers to the fact "that discrimination against women . . . is an obstacle to . . . the full development of the potentialities of women in the service of their countries and of humanity." CEDAW, *supra* note 1, pmb. ¶ 7. In paragraph 12, the Preamble states: "Convinced that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields[.]" *Id.* pmb. ¶ 12.

47. See *infra* Part V.

The following Part examines the drafting history to determine how rural women came to be featured in CEDAW. It also assesses the *Travaux Préparatoires*' insights into the rights enumerated for rural women and how those rights relate to the broader array of rights featured in the Convention.

II. THE DRAFTING HISTORY

Rural women were first mentioned in CEDAW in Draft 4, in 1974, in what became Article 10, applying educational rights to women "in rural as well as in urban areas."⁴⁸ Additionally, an early version of Draft 3 of the Convention, also in 1974, had alluded to rural women by specifying that the provision applied to "women . . . who are gainfully employed in . . . other organizations in agriculture and on plantations."⁴⁹ But the idea of an article dedicated to rural women arose relatively late in the process of drafting CEDAW—specifically, the idea arose in 1976 during the 26th Session of the Commission on the Status of Women.⁵⁰ An unnamed representative of the Food and Agriculture Organization (FAO) introduced the discussion of rural women and the challenges they face.⁵¹ She noted other contemporary instances of United Nations' attention to rural women.⁵² The Mexico Conference had adopted a resolution on women in agriculture,⁵³ and the General Assembly had adopted two resolutions at its thirtieth session, one regarding "women in rural areas" and the other regarding "improvement of the economic status of women for their effective and speedy participation in development."⁵⁴ In addition, a 1974 World Food Conference resolution had highlighted the need for women's involvement in rural development.⁵⁵

48. U.N. Doc. E/CN.6/AC.1/L.12 (1974); *see also* REHOF, *supra* note 42, at 110, 153 (containing information regarding early drafts of Article 10).

49. U.N. Doc. E/CN.6/574 (1974); *see also* REHOF, *supra* note 42, at 151, 153 (featuring information regarding early drafts of Article 14).

50. REHOF, *supra* note 42, at 153 (discussed in Pruitt, *Migration, Development, supra* note 2, at 729 n.149); *see also* Burrows, *supra* note 2, at 446-47 (relating the history of specifically incorporating rural women into the Convention draft).

51. Burrows, *supra* note 2, at 446 (noting that the FAO official particularly hoped "to improve the situation of agricultural workers").

52. *Id.*

53. *Id.*

54. *Id.* (specifically referring to "[i]mprovement of the economic status of women for their effective and speedy participation in development" of their countries, G.A. Res. 3522 (XXX), U.N. Doc. A/RES/3522(XXX) (Dec. 15, 1975); and "Women in Rural Areas", G.A. Res. 3523 (XXX), U.N. Doc. A/RES/3523(XXX) (Dec. 15, 1975)).

55. Burrows, *supra* note 2, at 446. The United Nations' attention to rural women has increased over the years since CEDAW was drafted. *See, e.g., Women Watch: International Day of Rural Women*, WOMENWATCH: INFO. & RES. ON GENDER EQUAL. & EMPOWERMENT

Beyond the FAO representative's role in getting rural difference on the Commission's agenda, a representative from India is widely credited with rural women's inclusion in CEDAW. She organized an informal working party (hereinafter "working party" or "working group") of several states that produced a draft article.⁵⁶ Ultimately, seven nations sponsored the amendment proposing what became Article 14: Egypt, India, Indonesia, Iran, Pakistan, Thailand, and the United States.⁵⁷ All except the United States were developing nations.⁵⁸ Indeed, one commentator saw Article 14 as "a manifestation of the impact of delegates of women from the Third World on the Commission on the Status of Women."⁵⁹ Professor Noreen Burrows characterizes Article 14 as "perhaps an inevitable culmination of the work of the United Nations linking questions of development with those of women."⁶⁰

The initial draft of what became Article 14, dated September 28, 1976, read:

Insert the following article in the text of the draft Convention between Articles 10 and 11, or after Article 11.

States Parties shall take all measures to eliminate discrimination against women in rural areas in order to guarantee them equality as participants and as beneficiaries of agricultural and rural development and particularly the right to:

(a) Participate fully in the formulation and implementation of development planning from the local to the national levels;

OF WOMEN, <http://www.un.org/womenwatch/feature/idrw/index.html> (last visited Jan. 31, 2011) [hereinafter *International Day of Rural Women*] (noting that in December 2007, the United Nations designated October 15 International Day of Rural Women, and this was first observed on October 15, 2008); U.N. DEPT OF ECON. & SOC. AFFAIRS, DIV. FOR THE ADVANCEMENT OF WOMEN ET AL., RURAL WOMEN IN A CHANGING WORLD: OPPORTUNITIES AND CHALLENGES (2008) [hereinafter RURAL WOMEN IN A CHANGING WORLD], available at <http://www.un.org/womenwatch/daw/public/Women%202000%20-%20Rural%20Women%20web%20English.pdf> (promoting the goals of the Beijing Declaration and the Platform for action); SOURCEBOOK, *supra* note 30.

56. Burrows, *supra* note 2, at 446.

57. United Nations, Econ. & Soc. Council, Comm. on the Status of Women, International Instruments Relating to the Status of Women: Draft Convention on the Elimination of Discrimination Against Women, U.N. Doc. E/CN.6/L.687 (Sept. 28, 1976) [hereinafter E/CN.6/L.687] (discussed in Burrows, *supra* note 2, at 446 & n.51).

58. Somewhat ironically, two of these sponsoring nations—Iran and the United States—are among the handful of nation states that have yet to ratify CEDAW. *See* Ratification, *supra* note 5 (not listing Iran as a party to CEDAW and showing the United States has not ratified CEDAW).

59. Burrows, *supra* note 2, at 447.

60. *Id.*

- (b) Receive adequate medical and health facilities, including family planning advice and services;
- (c) Obtain all types of training, formal and non-formal, as well as community and extension services;
- (d) Participate equally in all community activities including co-operatives;
- (e) Obtain equal access to credit and loans; marketing facilities; and equal treatment in land and agrarian reform as well as land resettlement schemes.⁶¹

Noteworthy is the fact that this initial draft was even more focused on agriculture than the final version. The draft closely links “agriculture with rural development,” but in a way that does not suggest they are perfectly synonymous. The most significant aspect of Article 14 that did not appear in this draft is (2)(h), which calls for member states to provide adequate infrastructure in rural areas, including water, sanitation, electricity, transport, and housing.⁶² The right to social security was also not included until a later version. It is interesting that this initial draft does not use the term “education,” but refers instead only to training and extension services, thus suggesting something less formal for rural women.

“In presenting the draft article,” its sponsors noted “two thirds of women in the World lived in rural areas,” and that for women in the developing world, “this meant isolation from political, social, cultural and economic activities.”⁶³ They also noted the importance of community and extension services that would empower women to help themselves.⁶⁴ The proposal to include this article about rural women found “immediate support from all delegates”; the Soviet Union, for example, labeled it a “wonderful initiative.”⁶⁵

Delegates then debated how to acknowledge rural women in the Convention. Representatives of France and Hungary “thought it might be more logical, as well as more effective . . . to insert each

61. E/CN.6/L.687, *supra* note 57. New Zealand proposed what became the structure for Paragraphs 1 (“problems faced by rural women”) and 2 (“participation in and benefits from rural development”). REHOF, *supra* note 42, at 155 (citing Rep. of the Working Group of the Whole on Drafting of the Convention on the Elimination of Discrimination against Women, 33rd Sess., ¶ 134, U.N. Doc. A/C.3/33/L.47/Add.1 (Dec. 1, 1978)).

62. *See infra* notes 227-41 and accompanying text.

63. Burrows, *supra* note 2, at 446; *see also* Bond, *supra* note 2, at 515 (noting that implementation of a national inheritance law in Ghana has been “spotty, particularly in rural areas”); *id.* at 515 n.194 (noting that knowledge of an international human rights treaty is limited in rural parts of Africa); Pruitt, *Migration, Development*, *supra* note 2, at 750-52 (noting the absence of law and legal actors in rural places).

64. Burrows, *supra* note 2, at 446.

65. *Id.* (quotation marks omitted).

subparagraph of the proposed text in the appropriate chapter (training, medical services, credit facilities, etc.) in order to stress, in each chapter, that a special effort should be made on behalf of rural women.”⁶⁶ Ultimately, however, the working group decided that “the situation of rural women was so disturbing that it should be the subject of a special article,”⁶⁷ and that an “article devoted to rural women would carry greater weight.”⁶⁸ In the end, the Commission unanimously adopted the proposal of the Indian-led working group, with minor amendments.⁶⁹

Within the working group that drafted Article 14,⁷⁰ a few representatives noted that some paragraphs repeated prior articles, while other representatives “stressed [the provisions’] importance within the context of rural women.”⁷¹ The working group’s chairman acknowledged the redundancies between Article 14 and the earlier articles, but emphasized that Article 14’s “main purpose was to draw attention to all aspects of the situation of women in rural areas.”⁷²

All of this suggests, of course, that Article 14 should be read in the context of CEDAW as a whole. In cases in which Article 14’s specific provisions are less expansive and detailed than other, similar CEDAW provisions, interpretation is more difficult, as discussed below.

III. GENDER EQUALITY AND SPATIAL EQUALITY

While CEDAW’s principal focus is gender equality, its recognition of rural women might also be seen as reflecting an aspiration to spatial equality—or at least an acknowledgment of spatial inequalities.⁷³

66. United Nations, Econ. & Soc. Council, Comm. on the Status of Women, International Instruments Relating to the Status of Women: Draft Convention on the Elimination of Discrimination Against Women, ¶ 3, U.N. Doc. E/CN.6/SR.658 (Oct. 11, 1976) [hereinafter E/CN.6/SR.658].

67. *Id.* ¶ 8.

68. *Id.* ¶ 9. Whether having a separate article has led to the provision’s substance carrying greater weight is debatable. In any event, it seems noteworthy that subsequent mentions of rural populations in relation to human rights have used a more pervasive approach to inclusion of rural concerns. See *supra* notes 37-46 and accompanying text.

69. Burrows, *supra* note 2, at 447.

70. See Rep. of the Working Group of the Whole on Drafting of the Convention on the Elimination of Discrimination against Women, 33rd Sess., ¶ 134, U.N. Doc. A/C.3/33/L.47/Add.1 (Dec. 1, 1978) [hereinafter A/C.3/33/L.47/Add.1] (reporting actions of the working group).

71. Draft Convention on the Elimination of Discrimination against Women, *Rep. of the Working Group of the Whole on the Drafting of the Convention on the Elimination of Discrimination against Women*, ¶ 131, U.N. Doc. A/34/60 (Mar. 2, 1979) [hereinafter A/34/60].

72. E/CN.6/SR.658, *supra* note 66, ¶ 34.

73. Spatial inequality is “place stratification or inequality within and between territorial units.” Linda Lobao, *Continuity and Change in Place Stratification: Spatial Inequality and Middle-Range Territorial Units*, 69 RURAL SOC. 1, 1 (2004); see also NEIL

That is, CEDAW is concerned not only that women gain equality with men, it seeks to some extent rural women's equality (or perhaps parity)⁷⁴ with urban women. It implicitly recognizes variations in access to services based on geography, suggesting that rural populations are often underserved in comparison to their urban counterparts.⁷⁵ Thus CEDAW is at least implicitly concerned with all rural populations, not only with women.

Indeed, CEDAW has been touted as manifesting a feminist character because of its attention to socio-economic rights,⁷⁶ and nowhere is this more evident than in Article 14. In an extensive and detailed list that one commentator has labeled "impressive,"⁷⁷ Article 14 calls for provision of infrastructure and basic needs,⁷⁸ including not only education and health care as stipulated elsewhere in CEDAW, but also water, sanitation, electricity, transport, and communications infrastructure.⁷⁹ Indeed, Article 14 is one of the lengthiest articles of the Convention, comparable in its detail only

SMITH, UNEVEN DEVELOPMENT: NATURE, CAPITAL AND THE PRODUCTION OF SPACE 131-35 (1984) (discussing the possibility of spatial equilibrium). Spatial inequalities may be assessed at various scales, including among nations and among sub-national units. See Lisa R. Pruitt & Beth A. Colgan, *Justice Deserts: Spatial Inequality and Local Funding of Indigent Defense*, 52 ARIZ. L. REV. 219, 229 (2010) (illustrating spatial inequalities among Arizona counties in their provision of indigent defense); Lisa R. Pruitt, *Spatial Inequality as Constitutional Infirmity: Equal Protection, Child Poverty and Place*, 71 MONT. L. REV. 1, 6 (2010) [hereinafter Pruitt, *Spatial Inequality*] (considering how the Montana Constitution could address spatial inequality in relation to provision of health and human services); see also SPATIAL DISPARITIES IN HUMAN DEVELOPMENT: PERSPECTIVES FROM ASIA 1-6 (Ravi Kanbur et al. eds., 2006) (discussing spatial inequality in relation to international development); SPATIAL INEQUALITY AND DEVELOPMENT 3-11 (Ravi Kanbur & Anthony J. Venables eds., 2005) (same).

74. See Pruitt, *India's Rural Remnant*, *supra* note 41, at Part III.B.

75. The same is true of the Disability Convention, discussed *infra* at notes 275-77.

76. See Hilary Charlesworth & Christine Chinkin, *The Gender of Jus Cogens*, 15 HUM. RTS. Q. 63, 69 (1993) (asserting that international law has given primacy to civil and political rights, which tend to protect men in their functioning in public life, while "importance has not been generally accorded to economic and social rights which affect life in the private sphere"); see also Charlesworth, *supra* note 28, at 60 (arguing that the structure of human rights law has been based on the silence of women and that the reason "[w]omen are in an inferior position [is] because they have no real power in either the public or private worlds, and international human rights law . . . reinforces this powerlessness"); Farha, *supra* note 9, at 553 (asserting the greater significance of socioeconomic rights to women). Farha repeatedly asserts the significance of CEDAW to "economic, social and cultural rights." *Id. passim*.

77. Southard, *supra* note 2, at 85 (calling this "attention to detail" regarding rural women "long overdue").

78. Welch, *supra* note 2, at 556; see also A/32/269, *supra* note 30, ¶ 13 (referring to the United Nations' "new basic-needs approach to economic development and technology choices" as manifest in a 1977 document by an *ad hoc* Working Group on Appropriate Technology in relation to the U.N. Conference on Science and Technology for Development).

79. CEDAW, *supra* note 1, art. 14(2)(h).

to Article 10 on education, Article 11 on employment, and Article 16 on women's rights in relation to marriage and the family. In the Part that follows, I discuss further Article 14's implicit attention to spatial inequality and how compliance with its provisions would ameliorate uneven development.

IV. THE LANGUAGE

In this part, I consider closely the language of Article 14 to assess the meaning of each subsection in the context of CEDAW as a whole.

Article 14(1): States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.⁸⁰

This provision calls attention to rural women broadly speaking, and it indicates that they should enjoy all of the rights stipulated elsewhere in the Convention.⁸¹ This part also makes certain assumptions about rural women, for example, that they play economic roles—and not only nurturing ones—in relation to their families. Indeed, it assumes that rural women have families. Both assumptions are present elsewhere in CEDAW with respect to all women.⁸²

Second, Article 14's reference to the "non-monetized sectors of the economy" associates both women and rurality with the informal economy (i.e., self-provisioning, bartering of goods and services).⁸³

80. *Id.* art. 14(1).

81. This follows a form proposed by the Cuban representative who suggested "an introductory phrase be drafted guaranteeing rural women the rights recognized in all the provisions of the Convention, and specifying in the subparagraphs those the Working Group wanted to emphasize." A/34/60, *supra* note 71, ¶ 132.

82. CEDAW's Article 11 on work, for example, guarantees women "the right to work as an inalienable right," CEDAW, *supra* note 1, art. 11(1)(a), and prohibits "dismissal on the grounds of pregnancy or of maternity leave," *id.* art. 11(2)(a), and provides "special protection . . . during pregnancy," *id.* art. 11(2)(d). Article 12 on health stipulates the right to "appropriate services in connexion with pregnancy, confinement and the post-natal period" and "adequate nutrition during pregnancy and lactation." *Id.* art. 12(2). Articles 5 and 9 also address aspects of women's roles as parents. *Id.* art. 5(b), 9(2).

83. See Welch, *supra* note 2, at 552 (noting that rural women are a majority of the female population of Rwanda, and that these women work in the non-monetized sector, e.g., "cooking, gathering wood, grinding cereals, fetching water, maintenance work, educating children" (quoting Rwanda's third report under the Convention on the Elimination of All Forms of Discrimination against Women, U.N. Doc. CEDAW/C/RWA/3)). Elsewhere CEDAW similarly associates rural women with a lower degree of formality, e.g., "non-

On the one hand, this association is beneficial for rural women because it acknowledges in a very positive way the significance of an economic sector little attended to in national or international legal systems.⁸⁴ Rural women exist principally outside “official statistics relating to GDP and employment, and have very often been ignored in development planning.”⁸⁵ On the other hand, it might be seen as negative to the extent it suggests that rural populations—including women—do not suffer deprivation in the way that urban populations do because the well-being of the former cannot be measured strictly in monetary terms⁸⁶ (i.e., the international poverty standard of one dollar per day).⁸⁷ That is, the informal economy may be seen as ameliorating poverty as measured in strictly monetary terms. While that suggestion could lessen the perceived need to assist rural women,

formal” education. CEDAW, *supra* note 1, art. 14(2)(d).

Since CEDAW’s ratification, the CEDAW Committee has adopted two General Recommendations about topics related to the informal economy. These are General Recommendation 16 regarding “[u]npaid women workers in rural and urban family enterprises,” and General Recommendation 17 on the “[m]easurement and quantification of the unremunerated domestic activities of women and their recognition in the gross national product.” Farha, *supra* note 9, at 556 (citing U.N. Doc. A/46/38 at 1-2 (1993)). These General Recommendations assist States Parties with preparation of their periodic reports.

84. Indeed, this is an aspect of what Amartya Sen and Martha Nussbaum have complained about in articulating their capabilities framework as an alternative to measuring well-being based on, for example, GDP. See MARTHA NUSSBAUM, *FRONTIERS OF JUSTICE: DISABILITY, NATIONALITY, SPECIES MEMBERSHIP* 164-68 (2006); NUSSBAUM, *WOMEN AND HUMAN DEVELOPMENT*, *supra* note 26, at 6, 60 (referring to “[d]efects in standard GNP- and utility-based approaches” being well illustrated by looking at the situation of women in the developing world and arguing for the need to look at the individual level of well-being, not that of the nation as measured by GNP); AMARTYA SEN, *DEVELOPMENT AS FREEDOM* 3 (1999) (writing that growth of GNP can be a very important “*means* to expanding the freedoms enjoyed by” citizens, “freedoms depend also on other determinants, such as social and economic arrangements . . . as well as political and civil rights”); see also A/32/269, *supra* note 30, ¶ 11 (noting the lack of data on the “nature and the socio-economic conditions” of rural women’s “work-participation” in “food production both for export and subsistence,” even though it “is known to be very high”).

85. Burrows, *supra* note 2, at 447 (citing U.N. Doc. A/Conf. 94/8). See also RURAL WOMEN IN A CHANGING WORLD, *supra* note 55, at 7-10 (discussing the importance of agriculture in developing nations, as well as women’s significant participation in this sector).

86. See Pruitt, *Gender, Geography*, *supra* note 42, at 352, 362 (discussing the association of rural women with the informal economy in the context of the United States).

87. See, e.g., AXEL WOLZ, GLOBAL DONOR PLATFORM FOR RURAL DEV., *THE ROLE OF AGRICULTURE AND RURAL DEVELOPMENT IN ACHIEVING THE MILLENNIUM DEVELOPMENT GOALS 1* (2005), available at http://www.donorplatform.org/component?option=com_docman/task/doc_details/gid,219/ (noting the one dollar per day poverty line); Gaurav Datt & Martin Ravallion, *Is India’s Economic Growth Leaving the Poor Behind? 2* (World Bank, Policy Research Working Paper No. 2846, 2002) (referencing the “international poverty line of \$1 per day”); see also THE WORLD BANK, *WORLD DEVELOPMENT REPORT 2008: AGRICULTURE FOR DEVELOPMENT* 45-49 & Box A.1 (2007) [hereinafter *AGRICULTURE FOR DEVELOPMENT*] (discussing and providing data based on poverty rates of \$1.08 per day and \$2.15 per day).

the remainder of Article 14 makes clear the particular needs of this group, and it indicates how member states should respond to them.

The use of the word “appropriate” to modify member states’ commitment under Article 14 might be read as giving member states flexibility with respect to actually achieving CEDAW’s mandates regarding to rural women. The *Travaux Préparatoires*, however, indicate that the United Kingdom suggested the word “appropriate” here in order that “nothing extreme, like violence, could be used to eliminate discrimination against women in rural areas.”⁸⁸

Article 14(2): States parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right[.]⁸⁹

The first clause of this sentence tracks standard CEDAW language (regarding member states taking measures to eliminate sex discrimination), adding only “in rural areas” to modify women and define the protected class. This part of Section 14(2), the prefatory statement to more specific and substantive rights, notes the critical importance of development to rural populations. The provision’s second clause emphasizes the perceived need for and significance of development to rural populations, a focus that is reinforced in part (2)(a).⁹⁰ The concerns enumerated in the subsections that follow refer to a variety of aspects of development, from investment in physical infrastructure, including sewage systems and telecommunications lines; to economic development, including access to credit and marketing facilities; to enhancement of human capital, including education and health care.⁹¹ These provisions regarding rural women are primarily programmatic,⁹² setting forth aspirational “future policy for governments to follow in their development planning.”⁹³ Only one—land reform—clearly implicates law or legal change.⁹⁴ I take up other aspects of CEDAW’s focus on development in the next section.

88. REHOF, *supra* note 42, at 155 (citing U.N. Doc. A/C.3/33/WG.1/CRP.5/Add.9).

89. CEDAW, *supra* note 1, art. 14(2).

90. *Id.* art. 14(2)(a) (reading, “[t]o participate in the elaboration and implementation of development planning at all levels”).

91. *Id.* art. 14(2).

92. Pruitt, *Migration, Development*, *supra* note 2, at 735; *see also* Burrows, *supra* note 2, at 447 (stating that Article 14 “is intended to serve as a programme of action for the developing countries”).

93. Burrows, *supra* note 2, at 447.

94. CEDAW, *supra* note 1, art. 14(2)(g).

Article 14(2)(a): To participate in the elaboration and implementation of development planning at all levels[.]⁹⁵

This provision's emphasis on development seems somewhat redundant of both the provision that precedes it and of some of the substantive and detailed sub-sections that follow. The "at all levels" language adds something new, however. It suggests that women should have a say in development planning not only at the community level (via self-help groups, co-operatives, community activities and such, as suggested in other parts of 14(2)),⁹⁶ but that they should also be integrated and included at higher levels, such as those of the region and even the nation state.⁹⁷ This CEDAW provision seems to contemplate decentralization, which international donors have identified as a positive force in rural development.⁹⁸

A number of U.N. documents and reports appear to have influenced the inclusion of Article 14(2)(a). Some of these documents are listed in the Secretary-General's 1977 Report on Women in Rural Areas,⁹⁹ and two other preliminary reports are also evidence of the

95. *Id.* art. 14(2)(a).

96. *See infra* notes 167-90 and accompanying text.

97. This is consistent with Articles 7 and 8 regarding women's political participation at all levels. CEDAW, *supra* note 1, art. 7, 8. Again, this Article 14 language suggests that participation in development is akin to political or other public sector participation in non-rural areas. The initial draft of what became Article 14 specifies the local and national scales. E/CN.6.L/687, *supra* note 57.

98. *See* WOLZ, *supra* note 87, at iv-v (noting importance of action at "global, national and local" levels); *see also* A/32/269, *supra* note 30, ¶ 12 (discussing the goal of women's involvement "in decision-making concerning water and other local services' management").

99. A/32/269, *supra* note 30, ¶ 2 n.1. These documents are:

- (a) ECA annual report (1 March 1976-3 March 1977) (*Official Records of the Economic and Social Council, Sixty-third Session, Supplement No. 7* (E/5941), paras. 111-114);
- (b) ECLA annual report (7 May 1976-6 May 1977) (*Official Records of the Economic and Social Council, Sixty-third Session, Supplement No. 11* (E/5945), paras. 29, 30 and 38);
- (c) ESCAP annual report (3 April 1976-30 April 1977) (*Official Records of the Economic and Social Council, Sixty-third Session, Supplement No. 8* (E/5909), paras. 195, 196, 200, 201 and 369);
- (d) Report of the Executive Board of UNICEF (*Official Records of the Economic and Social Council, Sixty-third Session, Supplement No. 12* (E/6014), paras. 100, 125, 127 and 129-132);
- (e) Report of FAO (E/5949 and Corr.1), paras. 29, 36, 170, 171, 179 and 180); and "Summary programme of work and budget 1978-1979" submitted to the FAO Council at its seventy-first session (CL 71/3, pp. 13 and A.7);
- (f) "Report of the ILO on its activities of special interest to women", submitted to the Commission on the Status of Women at its twenty-sixth session (E/CN.6/603, paras. 3, 19-21 and 24-30);
- (g) "Report of UNESCO on its activities of special interest to women", sub-

U.N.'s view of rural women in relation to development planning. These were (1) the Secretary-General's proposal to the General Assembly, at its thirty-first session, of further research discussing "the extent to which women participate in fields such as agriculture, industry, trade and science and technology,"¹⁰⁰ and (2) a questionnaire that the Secretariat (the staff of the Secretary-General) sent to member states in order to evaluate progress related to the United Nations' International Development Strategy for its Second Development Decade and for International Women's Year.¹⁰¹ These reports were preceded by General Assembly Resolution 3523 on "Women in Rural Areas,"¹⁰² and Resolution 31/175 on the "Effective Mobilization of Women in Development."¹⁰³ The questionnaires and resolutions focused on facilitating women's equal participation

with men in all development efforts and, in particular . . . equal access to political parties, trade unions, training, especially in agriculture, co-operatives, and credit and loan systems, as well as equal opportunities to participate in policy-making in the economic field, in commerce and trade and in the advanced efforts of industry[.]¹⁰⁴

Similar areas of concern are mentioned in CEDAW's Article 14, sections (2)(e) (self-help groups and co-operatives), (2)(f) (community activities), and (2)(g) (agriculture and economics).¹⁰⁵ Section (2)(a) might thus be seen as an umbrella for the subsections that follow it, as those subsections elaborate on different aspects of development.

This focus on development in Article 14 assumes that rural places are in need of development, which might be read as suggesting that they should become urban—or at least more urban-like. After all, urban places are necessarily more developed than rural ones by some measures. On this basis, Article 14 might be seen in its entirety as reflecting an urban bias.¹⁰⁶ Arturo Escobar's critique of develop-

mitted to the Commission on the Status of Women at its twenty-sixth session (E/CN.6/604, paras. 51-53, 58, 59, 63, 68 and 73).

Id.

100. U.N. Doc. A/31/205 (Dec. 22, 1976).

101. A/32/269, *supra* note 30, ¶ 7.

102. G.A. Res. 3523 (XXX), U.N. Doc. A/RES/3523(XXX) (Dec. 15, 1975).

103. G.A. Res. 31/175, U.N. Doc. A/RES/31/175 (Dec. 21, 1976).

104. *Id.*

105. CEDAW, *supra* note 1, art. 14(2)(e)-(g).

106. Pruitt, *Migration, Development*, *supra* note 2, at 725-27; *see also* IDRIS JAZAIRY ET AL., *THE STATE OF WORLD RURAL POVERTY: AN INQUIRY INTO ITS CAUSES AND CONSEQUENCES* 69 (1992) (discussing urban bias generally and its perpetuation of rural poverty); Michael Lipton, *Urban Bias*, in *ENCYCLOPEDIA OF INTERNATIONAL DEVELOPMENT* 724, 724-26 (Tim Forsyth ed., 2005) (defining urban bias in relation to international devel-

ment would thus presumably see at least some aspects of CEDAW's Article 14 as problematic in that it risks articulating a false consciousness for rural populations. Escobar challenges the assumption that "peasants" desire development as manifest, for example, in production for the market.¹⁰⁷ He expresses offense that the development community sees development as "about growth, about capital, about technology, about becoming modern,"¹⁰⁸ which may be inconsistent with the wishes of villagers themselves.¹⁰⁹ Article 14, then, appears to mandate what Escobar believes rural residents do not necessarily seek because it effectively makes choices for rural populations by suggesting what the good life entails, for example, increased production and production for the market.

Nevertheless, Article 14(2)(a) may have some redeeming qualities in relation to the otherwise hegemonic nature of development. Specifically, Article 14(2)(a)'s call for the engagement of rural women in development "at all levels"¹¹⁰ aspires for rural women to have a say in the path of development, thereby endowing them with the power to reject certain development courses, should they so choose. Indeed, the CEDAW working group stressed "the need for the participation of people at the grass-roots level, so as to ensure that actual conditions in rural areas are taken into account in the planning process."¹¹¹

Interestingly, rural places are not the only objects of CEDAW's development agenda. Article 3, which broadly calls for member states to take action, calls for the development of women themselves. It states in relevant part:

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.¹¹²

opment); WOLZ, *supra* note 87, at 10, 41-45 (noting a bias in public spending on urban needs, in spite of the significance of agricultural development at certain stages of a nation's development); *see also infra* notes 257-58 and accompanying text (discussing rural women as "other" in the context of CEDAW).

107. ARTURO ESCOBAR, ENCOUNTERING DEVELOPMENT: THE MAKING AND UNMAKING OF THE THIRD WORLD 157-62 (1995).

108. *Id.* at 162.

109. *Id.* (discussing how development programming often does not view rural living as a "viable . . . way of life").

110. CEDAW, *supra* note 1, art. 14(2)(a); *see also supra* notes 95-105 and accompanying text (echoing concerns about women's integration into development that were expressed in a 1977 U.N. document. A/32/269, *supra* note 30, ¶¶ 5, 8, 12, 15, 19, 22).

111. A/32/269, *supra* note 30, ¶ 22.

112. CEDAW, *supra* note 1, art. 3.

CEDAW thus assumes women are subjects to be acted upon—to be developed—in the same way rural people and places are to be acted upon and improved.

The parallel between women and rurality suggested by CEDAW's use of the term "development" regarding both reflects a pervasive and long-standing association between the feminine and the rural.¹¹³ Both rurality and women have also long been associated with the private sphere, with that which is beyond the law's reach.¹¹⁴ CEDAW challenges this latter association by bringing both to the law's attention and within the purview of international law. In doing so, however, it fails to mainstream either. Instead, it reinforces the feminine/private/rural association, and marginalizes both women and rurality.¹¹⁵ On a more positive note, CEDAW sees women's autonomy as critical aspects of both types of development, and it attends to issues such as education and health care as key to fostering that autonomy.

The concerns which led to (2)(a)'s stipulation that women be included in development planning at all levels clearly persist. A 2008 United Nations Report, *Rural Women in a Changing World*, reveals that rural women's situation has changed too little.¹¹⁶ India, for example, is among countries that have taken concrete steps to increase women's participation in local government.¹¹⁷ In some Indian states, this has resulted in increased government spending on councilwomen's priorities, such as drinking water and health care.¹¹⁸ But while some efforts to increase women's participation in local government have proved effective, significant barriers still impede women's involvement.¹¹⁹ These include women's second shift, the fact that their private sphere responsibilities (e.g., the household family and child rearing)¹²⁰ are typically greater than those of men. This leaves women

113. Pruitt, *Gender, Geography*, *supra* note 42, at 369-71.

114. *Id.* at 366-69; Pruitt, *Migration, Development*, *supra* note 2, at 750-51.

115. Rurality is often also a site for intersection with indigeneity. See Martínez, *supra* note 2, at 216-17 (discussing allocating resources to indigenous rural populations). On a more positive note, CEDAW sees women's autonomy as a critical aspect of both types of development, and it attends to issues such as education and health care as key to fostering that autonomy.

116. RURAL WOMEN IN A CHANGING WORLD, *supra* note 55, at 35.

117. *Id.* (noting that a 1993 amendment to India's constitution "included a measure to reserve one third of seats in panchayats (local governing councils) for women"). Many scholars have discussed the consequences of these quotas. See, e.g., Raghavendra Chattopadhyay & Esther Duflo, *Women as Policymakers: Evidence from a Randomized Policy Experiment in India*, 72 *ECONOMETRICA* 1409 (2004).

118. RURAL WOMEN IN A CHANGING WORLD, *supra* note 55, at 36.

119. *Id.*

120. *Id.* at 35.

with less time to participate in policy-making roles.¹²¹ Entrenched attitudes regarding gender roles also continue to hinder women's opportunities for higher-level policy making positions.¹²²

Article 14(2)(b): To have access to adequate health care facilities, including information, counseling and services in family planning[.]¹²³

This "access to adequate health care facilities" clause came to be included in Article 14 because U.N. research "showed that a great part of the health expenditures intended for the most needy, especially for rural women, did not reach them and remained at the middle levels."¹²⁴ Article 14(2)(b) echoes Article 12, which is entirely about health care.¹²⁵ Article 12, however, is more comprehensive than 14(2)(b). Specifically, Article 12 grants women "access to health care services, including those related to family planning . . . [and] appropriate services in connexion with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation."¹²⁶

That Article 12 is more comprehensive than section (2)(b) of Article 14 might be seen as suggesting that less is due to rural women than to their urban counterparts, despite Section 14(1)'s broad statement applying "the provisions of the present Convention to women in rural areas."¹²⁷ Other differences in language between the two provisions support this construction. Whereas Article 12 talks of achieving women's equality with men in terms of access to health care services, 14(2)(b) articulates the goal of "adequate health care facilities."¹²⁸ The latter provision's use of the term "adequate" does not suggest rural-urban parity, but rather a sort of minimal standard.¹²⁹ Thus, Article 12 is about *equality* between men and women,

121. *Id.*

122. *See id.* (noting that in Central and South American countries, "grassroots acceptance of women's participation is difficult and slow," so that women are rarely involved in farmers' organizations, and when they are, it is typically "only as members," and rarely in leadership roles).

123. CEDAW, *supra* note 1, art. 14(2)(b).

124. A/C.3/33/L.47/Add.1, *supra* note 70, ¶ 149. This is consistent with the situation in India, for example. *See* Pruitt, *India's Rural Remnant*, *supra* note 41, at Part II (discussing the situation in India).

125. CEDAW, *supra* note 1, art. 12.

126. *Id.*

127. *Id.* art. 14(1).

128. *Id.* art. 14(2)(b).

129. *See* Pruitt, *India's Rural Remnant*, *supra* note 41, at Part III.B (discussing the adequacy versus equality debate in the context of the capabilities framework developed by Amartya Sen and Martha Nussbaum, as well as in relation to spatial inequality across the rural-urban axis); *see also* Pruitt, *Spatial Inequality*, *supra* note 73, at 88 & n.573

while Article 14(2)(b) suggests mere *adequacy*—a minimal standard of health care—for rural women. In addition, pursuant to Article 12, rural women would enjoy equal access with men to the “adequate” rural facilities and services.

Article 12’s “as well as adequate nutrition during pregnancy and lactation” clause is an instance where attention to the needs of rural women revealed a concern subsequently elevated out of Article 14 and specified as a wider right for all women.¹³⁰ The clause was originally proposed for Article 14(2)(b), but the working group believed the right “should not be limited to rural women.”¹³¹ This drafting history reinforces the construction that Article 12 applies to all women, including rural women. Article 14, then, highlights specific rights that urban women have historically enjoyed to a greater degree than rural women (e.g., access to health care facilities). Article 14(2)(b) thus seeks to obtain for rural women some of what urban women already tend to get. In essence, it draws attention to spatial inequality and rural disadvantage with respect to health care services.¹³²

(noting the adequacy/equality debate in education); Pruitt & Colgan, *supra* note 73, at 223 (noting the adequacy/equality conflict in indigent defense programming).

130. United Nations, Econ. & Soc. Council, Comm. on the Status of Women, Draft Rep. of the Comm. of the Status of Women on its Twenty-Fifth Session, ¶ 112, U.N. Doc. E/CN.6/L.660/Add.7 (Jan. 29, 1974) [hereinafter E/CN.6/L.660/Add.7].

Measures provided by the Convention should include the expansion of social services in rural areas, which would make it possible for pregnant women and nursing mothers to be relieved from the normal work on their farms in order to fulfill their maternal duties without risks to their health or loss of family earnings.

Id.

131. A/C.3/33/L.47 Add.1, *supra* note 70, ¶ 152.

132. Inclusion of the Article 14(2)(b) phrase regarding “information, counseling and services in family planning” appears to have been about as controversial as the inclusion of “family planning” language in Article 12. Specifically, regarding Article 14(2)(b), New Zealand advocated gender neutrality, proposing an amendment that would specify “family planning advice should be equally available to men.” REHOF, *supra* note 42, at 158 (citing U.N. Secretary-General, *United Nations Decade for Women: Equality, Development and Peace: Draft Convention on the Elimination of Discrimination against Women: Rep. of the Secretary-General*, ¶ 103, U.N. Doc. A/32/218 (Sept. 21, 1977)). Greece, on the other hand, “expressed reservations” about even mentioning family planning, noting “it could give rise to negative reactions.” *Id.* (citing U.N. Secretary-General, *United Nations Decade for Women: Equality, Development and Peace: Draft Convention on the Elimination of Discrimination against Women: Rep. of the Secretary-General: Addendum*, ¶ 39, U.N. Doc. A/32/218/Add.1 (Oct. 22, 1977)). Also, Argentina and Hungary debated whether the text of 14(2)(b) should be more comprehensive to cover “disadvantaged population groups, both in rural areas and among the lowest income urban groups.” U.N. Secretary-General, *United Nations Decade for Women: Equality, Development and Peace: Draft Convention on the Elimination of Discrimination against Women: Rep. of the Secretary-General: Addendum*, ¶ 44, U.N. Doc. A/32/218/Add.1 (Oct. 22, 1977); U.N. Secretary-General, *United Nations Decade for Women: Equality, Development and Peace: Draft Convention on the Elimination of Discrimination against Women: Rep. of the Secretary-General: Addendum*, ¶ 16, U.N.

Limited access to health care remains an issue for rural women today, a problem illustrated by the rate of pregnancy-related deaths. In many developing countries, the rate of pregnancy-related deaths is one in sixty-one, but it is higher still in sub-Saharan Africa, at one in fifteen.¹³³ The rate of child delivery with a skilled attendant is also significantly lower in rural areas than in urban areas.¹³⁴ In South Asia, for example, fewer than thirty percent of rural women deliver with the help of a skilled attendant.¹³⁵

Article 14(2)(c): To benefit directly from social security programmes[.]¹³⁶

As in 14(2)(b), this provision suggests that social security is a right that urban women may have historically enjoyed to a greater extent than their rural counterparts. One reason for the difference in access to social security is the distinction between the formal and informal economies, with benefits such as social security associated with the former. “Social security” is not defined in CEDAW, but Article 11 on employment provides some insights into its intended meaning. It states that women shall enjoy, on a basis of equality with men, “[t]he right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave.”¹³⁷

The FAO’s representative noted the importance of expanding to rural women “social security coverage, in particular as regards

Doc. A/32/218/Add.2 (Oct. 28, 1977). The inclusion of the family planning provision in Article 12 triggered less debate. With regard to Article 12, several delegates “objected to the reference to ‘services’ in connexion with family planning since there are no family planning services in some countries.” Some delegates thought this might lead to some countries’ refusal to ratify the Convention. U.N. Doc. A/C.3/33/L.47, ¶ 115 (Nov. 26, 1978). Others insisted that CEDAW be aspirational in this regard, “that the Convention should reflect the state of affairs desired and should contain guidelines for the future.” *Id.*

133. RURAL WOMEN IN A CHANGING WORLD, *supra* note 55, at 23.

134. *Id.*

135. *Id.* One consequence of this is obstetric fistula, which can leave women shunned by their partner and their community. *Id.* According to a United Nations report, “at least 2 million women in Africa, Asia and the Arab region are living with obstetric fistula as a consequence of prolonged obstructed labour, with some 50,000 to 100,000 new cases developing each year.” *Id.* The report further notes that a number of factors lead to obstetric fistula, including “early childbearing, the lack of skilled attendants at birth, inadequate emergency obstetric services and the lack of transportation facilities to reach such services.” *Id.* at 24; *see also* Pruitt, *India’s Rural Remnant*, *supra* note 41, at Part II.C.2 (describing rural-urban difference in health care access in India).

136. CEDAW, *supra* note 1, art. 14(2)(c).

137. *Id.* art. 11(1)(e).

sickness, disability and old-age pensions.”¹³⁸ Other representatives expressed concern that the link between social security and “the non-monetized section of the economy” might preclude rural women’s access to social security benefits because of their association with the informal economy.¹³⁹ Specifically, these representatives wanted women to “have access to social security in their own right and not as dependents.”¹⁴⁰

The inclusion of the clause on social security was one of the most hotly debated in Article 14, and it is one of the only provisions of Article 14 to which a member state has made a reservation.¹⁴¹ Egypt’s representative noted that “most developing countries were striving to extend social security coverage gradually, to all workers” and that “women in rural areas should have the right to social security on equal terms with men.”¹⁴² Whether she meant all men or only men in rural areas is not known. The U.S.S.R. representative agreed that it was “difficult for developing countries which as yet had no social security systems” to promise to extend social security to rural women.¹⁴³ France proposed that rural women enjoy social security “when such a system exists in rural areas, at least for wage earners,” and Japan noted that unemployed urban women are not eligible for social security.¹⁴⁴ Several different phrasing proposals were rejected,¹⁴⁵ some would have granted women “personal rights to social security”¹⁴⁶ or “social security in their own right.”¹⁴⁷ While these rejected proposals do not seem fundamentally different than the language ultimately adopted, “[t]o benefit directly from social security programmes,”¹⁴⁸ this drafting history does suggest that Article 14 was not intended to

138. E/CN.6/L.660/Add.7, *supra* note 130, ¶ 12 (noting the need for expansion of social security, “in addition to social services”).

139. A/34/60, *supra* note 71, ¶ 144. Rural women’s association with the informal economy also persists in the developed world. See Pruitt, *Gender, Geography*, *supra* note 42, at 349-51 (discussing the association of rural women with the informal economy in the United States).

140. A/34/60, *supra* note 71, ¶ 144.

141. Declarations, reservations, objections and notifications of withdrawal of reservations relating to the Convention on the Elimination of All Forms of Discrimination against Women, CEDAW/SP/2006/2, June 23, 2006, at 12-13 (articulating France’s reservation to Article 14(2)(c) as interpreting the provision as “guaranteeing that women who fulfill the conditions relating to family or employment required by French legislation for personal participation shall acquire their own rights within the framework of social security”).

142. E/CN.6/SR.658, *supra* note 66, ¶ 26.

143. *Id.* ¶ 25.

144. *Id.* ¶ 28; A/C.3/33/L.47/Add.1, *supra* note 70, ¶ 174.

145. See A/C.3/33/L.47/Add.1, *supra* note 70, ¶¶ 143-46 (recording proposed phrasing and delegates’ responses).

146. *Id.* ¶ 143.

147. *Id.* ¶ 146.

148. CEDAW, *supra* note 1, art. 14(2)(c).

require member states to extend social security to rural women *per se*. The intention was, rather, that in member states with social security programmes, rural women should benefit from them directly, and not only as the spouses of those working in the monetized sector. “Directly” thus appears to be a key word.

The 2002 United Nations study *Women's Rights in Agriculture*¹⁴⁹ describes obstacles women continue to face in obtaining social security benefits. In South Africa, for example, more women than men are eligible to receive social security due to the lower age requirement; however, fewer women than men actually receive these benefits because the former lack required identity cards.¹⁵⁰ In Tunisia, the general social security regime was extended in 1970 to cover agricultural laborers who are employed with the same employer for more than six months.¹⁵¹ Women, however, do not easily benefit from this extension, because many women work in seasonal and temporary positions that do not meet the six-month requirement.¹⁵²

Article 14(2)(d): To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, *inter alia*, the benefit of all community and extension services, in order to increase their technical proficiency[.]¹⁵³

Just as 14(2)(b) regarding health care for rural women echoes Article 12, this subsection of Article 14 echoes another article—the one regarding education.¹⁵⁴ Indeed, Section 14(2)(d) germinated in Article 10 (on education), where the working group recognized the importance of access to education “in rural as well as in urban areas.”¹⁵⁵ Article 10's express applicability to rural women was made as early as Draft 4 in 1974,¹⁵⁶ and Article 10 still features the only use of the word “rural” outside Article 14.

Thus, two articles address education. Article 10 does so in a very comprehensive fashion, specifying, for example, many contexts and features of education: exams, teachers, books, availability of scholarships, continuing education, and even access to education regarding

149. Lorenzo Cotula, Food & Agric. Org. of the United Nations, *Gender and Law: Women's Rights in Agriculture*, FAO Legislative Study 76 (2002), available at http://www.fao.org/documents/show_cdr.asp?url_file=/DOCREP/005/Y4311E/Y4311E00.HTM [hereinafter *Women's Rights in Agriculture*].

150. *Id.* at 94.

151. *Id.* at 96.

152. *Id.*

153. CEDAW, *supra* note 1, art. 14(2)(d).

154. *Id.* art. 10.

155. U.N. Doc. E/CN.6/AC.1/L.12 (1974).

156. *See supra* note 48 and accompanying text.

family planning.¹⁵⁷ Article 10 also includes the acknowledgment of the rural context in Article 10(a), noting the need for “educational establishments of all categories in rural as well as in urban areas.”¹⁵⁸

Article 14(2)(d), on the other hand, is much briefer and focused entirely on the rural setting.¹⁵⁹ The presence of these two provisions raises the issue of how to read them in tandem and, specifically, what rights regarding education CEDAW anticipates for rural women. As with access to health care, an apparent conflict exists between Article 14(1)’s language applying “the provisions of this Convention to women in rural areas” and Article 14(2)(d)’s narrower mandate regarding the education of rural women.

The *Travaux Préparatoires* suggest that representatives ultimately agreed that educational parity across the rural-urban axis was not feasible and not to be expected of member states. An early draft of Article 10 provided, “Each State Party . . . [shall] ensure women . . . [e]qual conditions of access to, and study in educational institutions

157. CEDAW Article 10 provides:

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

- (a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;
- (b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;
- (c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education . . . [suggesting even] revision of textbooks and school programmes and the adaptation of teaching methods;
- (d) The same opportunities to benefit from scholarships and other study grants;
- (e) The same opportunities for access to programmes of continuing education . . . particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;
- (f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;
- (g) The same opportunities to participate actively in sports and physical education;
- (h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

CEDAW, *supra* note 1, art. 10.

158. *Id.* art. 10(a).

159. *Id.* art. 14(2)(d). “Cuba proposed the inclusion of a reference to rural women’s access to ‘education’ in [Article 14], even though this had already been inferred in adopted Article 10.” REHOF, *supra* note 42, at 159 (citing U.N. Doc. E/CN.6/608, ¶ 122).

of all types, in rural as well as in urban areas, including universities, vocational, technical and professional schools”¹⁶⁰ Some members of the working group expressed reservations about this language. Finland, for example, thought that the phrase “in rural as well as in urban areas” was “too ambitious” and “would imply . . . the establishment of universities all over the country, in rural as well as urban areas.”¹⁶¹ Ultimately, the language in Article 10(a) was changed from “equal conditions of access . . . in rural as well as urban areas” to “the same conditions for career and vocational guidance, for access to studies and or the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas” The change from “equal” to “same” may have been viewed as critical because the former carries particular meanings—and burdens—in legal contexts. Because Article 14(2)(d) makes no promise of “access to . . . universities,” its expectations thus appear narrower than those of Article 10. This suggests two things. First, the drafters recognized the expense associated with providing the most sophisticated and high-level services to spatially dispersed populations, where economics of scale are very difficult to achieve. Second, it suggests that, Article 14(1) notwithstanding, rural women are not expected to enjoy all of the benefits contemplated by CEDAW for women generally—essentially urban women. These differences between Articles 10 and 14(2)(d), illuminated by the *Travaux Préparatoires*, suggest that CEDAW’s goal is not, in fact, to provide parity of educational opportunity across the rural-urban continuum.

Further, 14(2)(d) implies that certain types of education are more significant than others to rural women. These include “non-formal” education, “functional literacy,” and “community and extension services” related to “technical proficiency.”¹⁶² The inclusion of these terms associates rurality with a lower degree of sophistication, which in turn implicates a lower caliber of educational need or service. Functional literacy suggests a need for adult education, while references to “community and extension services” and “technical proficiency” suggest rurality’s association with agricultural production.

Rural Women in a Changing World reports that, despite women’s gains in access to education, it remains out of reach for many.¹⁶³ Girls account for three-fifths of the reported 113 million children of primary

160. U.N. Doc. E/CN.6/AC.1/L.12 (1974).

161. REHOF, *supra* note 42, at 154.

162. CEDAW, *supra* note 1, art. 14(2)(d); *see also* A/32/269, *supra* note 30, ¶ 8 (similarly noting the need for rural women’s “vocational training, non-formal education and orientation, etc., to enhance development capabilities of women as well as to prepare them for family reunion” with a migrant spouse).

163. RURAL WOMEN IN A CHANGING WORLD, *supra* note 55, at 26.

school age who are not in school, and 82% of children not in primary school in developing countries are in rural areas.¹⁶⁴ In regards to non-formal education, a 2003 study in south-western Nigeria found that only 55.8% of women are aware of extension services in their area, and only one-third of those women see extension personnel regularly.¹⁶⁵ Moreover, extension personnel tend to target landowners, leaving many women without advice and training to enhance their farming activities.¹⁶⁶

Article 14(2)(e): To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self-employment[.]¹⁶⁷

Subsection 14(2)(e) appears to be the rural equivalent to or complement of Article 11, which discusses women's rights in the field of employment,¹⁶⁸ and Article 13, which addresses economic rights,

164. *Id.*

165. *Id.* at 33.

166. *Id.* at 32.

167. CEDAW, *supra* note 1, art. 14(2)(e).

168. *Id.* art. 11. It provides:

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:
 - (a) The right to work as an inalienable right of all human beings;
 - (b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;
 - (c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;
 - (d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;
 - (e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;
 - (f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.
2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, State Parties shall take appropriate measures:
 - (a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;
 - (b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;
 - (c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;

including the “right to bank loans, mortgages and other forms of financial credit.”¹⁶⁹ The drafters clearly saw self-help groups, co-operatives, and self-employment as key vehicles for rural women’s economic and social empowerment.

The working group that drafted Article 14 discussed the similarities and differences between self-help groups and co-operatives. The chairman clarified that a self-help group is “an arrangement of a co-operative kind which is not established as a formal co-operative.”¹⁷⁰ Thus, the difference appears to be in the nature of legal status and degree of formality.

Consistent with Article 14(2)(c)’s attention to co-operatives and self-help groups, a 2005 assessment of the Global Donor Platform Regarding the Roles of Rural and Agricultural Development in Achievement of the Millennium Development Goals (Global Donor Platform) found rural organizations critical to “the political and economic empowerment of the rural poor.”¹⁷¹ One reason for this is the nature of rural spatiality; unlike their urban counterparts, impoverished rural populations “are spread over large areas.”¹⁷² While they may be networked with one another, they are not necessarily in a position to organize in order to improve their lot.¹⁷³ The Global Donor Platform has thus called for governments “to provide the necessary legal framework” to facilitate organization by the rural poor.¹⁷⁴ CEDAW can be an important motivator for member states to adopt such a framework.

Indeed, over the years, the U.N. had issued various publications about self-help groups and cooperatives in general,¹⁷⁵ as well as how

(d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.

3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

Id.

169. *Id.* art. 13. It provides:

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to family benefits;
- (b) The right to bank loans, mortgages and other forms of financial credit;
- (c) The right to participate in recreational activities, sports and all aspects of cultural life.

Id.

170. A/C.3/33/L.47/Add.1, *supra* note 70, ¶ 161.

171. WOLZ, *supra* note 87, at iv-v.

172. *Id.* at 45.

173. *Id.*

174. *Id.*

175. See, e.g., U.N. Reports and Resolutions on Cooperatives, available at <http://www>

they affect rural women specifically.¹⁷⁶ A number of these reports appear to have influenced the inclusion of Article 14(2)(e) and its detail. The 1978 United Nations Report on the National Experience in Promoting the Cooperative Movement found familiar obstacles to women's participation in cooperatives, including "lack of education, heavy work schedules in the home and in the fields and restrictive cultural and traditional attitudes."¹⁷⁷ The Report noted women's acceptance as the "natural labour force" in the lower and local levels of co-operative employment, but observed that they rarely hold positions in higher echelons of these organizations.¹⁷⁸ The traditional public-private divide, the Report observed, has left women lacking in confidence "to break out of their traditional roles and take on activities outside the home."¹⁷⁹ One result is that women often support male candidates rather than female ones for offices within co-operatives.¹⁸⁰

As in other contexts, women's lack of land ownership may be a formal barrier—and not only a *de facto* one—to women's advancement because it may preclude them from membership in an agricultural co-operative.¹⁸¹ Women's involvement in these organizations thus "usually begins and ends with the preparation and delivery of produce for marketing," while the men "vote and . . . control the proceeds from the sale."¹⁸²

Nevertheless, co-operatives have sometimes proved successful vehicles for women's empowerment. The 1978 Report observed that co-operative-provided services "relieve women of difficult time-consuming jobs in their home and farm work and assist them in carrying out their responsibilities in a more modern and efficient way."¹⁸³ The

.copacgva.org/publications/unpublications.html (listing "reports, resolutions and other information resources produced by the United Nations on cooperatives").

176. United Nations, Econ. & Soc. Council, National Experience in Promoting the Cooperative Movement, ¶¶ 24-33, U.N. Doc. E/1978/15 (1978) [hereinafter E/1978/15].

177. *Id.* ¶ 27.

178. *Id.* (noting also that "consumer movements are content to have the vast majority of their members be women").

179. *Id.*

180. *Id.*

181. E/1978/15, *supra* note 176, ¶ 27.

In many countries the prevailing unwritten, customary laws concerning ownership and inheritance of land and other family property state that land belongs to the clan and is entrusted to the man as head of the family. This enables the man who belongs to a co-operative—whether agricultural, handicrafts or producers'—to receive dividends or other benefits from it, although the women usually do the work.

Id. In some cases, legislation that would enable women to be members of a co-operative is not enforced. *Id.*

182. *Id.*

183. *Id.* The Report continues: "Since co-operatives involve the whole rural family, women have a special part to play in shaping the attitudes of their families, increasing food

United Nations has recognized that co-ops can enable women's social emancipation, as well as their economic empowerment, by providing opportunities to "participate in decision-making."¹⁸⁴ Having learned the "power of association" through involvement in co-ops, women may press for services such as education and health care.¹⁸⁵

Perhaps because of this explicit U.N. recognition of co-operatives' significance, a 1976 General Assembly Resolution about the National Experience in Promoting the Co-operative Movement noted "the social and economic benefits" that "all sections of society" reap from a range of co-operatives.¹⁸⁶ The Report also stressed the value of "multipurpose co-operative[s]" to the "agricultural and allied rural sectors" in the developing world.¹⁸⁷

The World Bank's 2009 *Gender in Agriculture Sourcebook* sheds light on obstacles rural women continue to face in forming self-help groups and co-operatives.¹⁸⁸ One is that the distribution of work between women and men has not changed; women's multiple responsibilities—including responsibilities for family and home—effectively limit their participation.¹⁸⁹ Additional obstacles include the cost of participation in groups, as many women can invest their time in more profitable ways, as well as conflicts of interest that can arise between more educated women and poorer women regarding the distribution of benefits.¹⁹⁰

Article 14(2)(f): To participate in all community activities[.]¹⁹¹

production and improving nutritional standards. Improvements in the condition of women are reflected in improved conditions for the family." *Id.* ¶ 28. This echoes concerns articulated in a 1977 U.N. Report of the Secretary-General on "Women in Rural Areas," A/32/269, *supra* note 30. The Report makes two references to the "drudgery of rural women's work," calling for example, for "appropriate technology" to alleviate it. *Id.* ¶¶ 3, 20. Availability of water is sometimes also mentioned in relation to drudgery and how technology can alleviate it. *Id.* ¶ 12 (referring to United Nations, Econ & Soc. Council, United Nations Water Conference, Mar. 14-25, 1977, *Water, Women and Development*, U.N. Doc. E/CONF.70/A.10 (1977)); see also Martínez, *Rights of Rural Women*, *supra* note 2, at 213 (writing of "women's central work in sowing and harvesting, gathering firewood, and carrying water," which is "overshadowed by other responsibilities . . . including child-rearing, care of ill or elderly family members, house-cleaning, food preparation, and other tasks").

184. E/1978/15, *supra* note 176, ¶ 28.

185. *Id.* ¶ 29. The 1978 Report further notes that women are sometimes appointed to "responsible management posts, such as membership in national executive committees, and elected to high office." *Id.* ¶ 28.

186. G.A. Res. 31/37, U.N. Doc. A/RES/31/37 (Nov. 30, 1976) (listing as types of co-operatives "producers', consumers', credit, multipurpose and other kinds of co-operatives").

187. *Id.*

188. SOURCEBOOK, *supra* note 30, at 67.

189. *Id.*

190. *Id.*

191. CEDAW, *supra* note 1, art. 14(2)(f).

This section originally articulated the right as one “to participate in all community activities including co-operatives,”¹⁹² thus linking community activities and co-operatives. After a lengthy discussion of co-operatives in relation to what became section (2)(e), the working group decided to omit the reference to co-operatives from (2)(f).¹⁹³ The inclusion of (2)(f) seems to have been uncontroversial, although the type of community activities it envisages is not clear.

Because this right to participate in community activities is not expressed in similar terms elsewhere in the Convention, this provision might also be seen as suggesting that grass-roots or community level organizing is particularly significant in rural places, where higher-scale (e.g., municipal, state or national) public-sphere activity has less impact.¹⁹⁴ This focus on the scale of the community suggests its importance in rural settings, where villages may be isolated from other places and the additional public sphere opportunities they represent. Otherwise, the right to participate in community activities would not seem necessary or worthy of particular mention in relation to rural women.

As a related matter, the mention of community activities might also reflect the drafters’ perception that patriarchy, and in particular the divide between public and private spheres, is more entrenched in rural places than in urban ones.¹⁹⁵ Martha Freeman has asserted, for example, that development assistance has typically targeted land owners who are usually men because of patriarchal assumptions about gender roles.¹⁹⁶ Various U.N. reports seem to suggest a presumption of entrenched rural patriarchy. These sometimes imply that ensuring women’s progress and empowerment is more critical in rural than in urban areas—perhaps because rural areas have lagged in this regard.¹⁹⁷ A 2008 U.N. report, for example, observed the importance

192. A/C.3/33/L.47/Add.1, *supra* note 70, ¶ 158.

193. *Id.* ¶ 159.

194. *See supra* notes 63, 253-55 and accompanying text (discussing rural isolation and the relative absence of law in rural places).

195. *See* Pruitt, *Gender, Geography*, *supra* note 42, at 354, 366, 372 (describing rural patriarchy and gender roles); *see also* Welch, *supra* note 2, at 555-56 (discussing the *de facto* inequality of rural women in Africa as the “reality of village life”).

196. *See* Freeman, *supra* note 27, at 98 (discussing development aid going to men in their roles as head of the family); *see also* Pruitt, *Migration, Development*, *supra* note 2, at 722-28 (discussing the differing types of development assistance that have historically flowed to men and women); Ann Whitehead & Helen Bloom, *Agriculture, in* GENDER AND DEVELOPMENT: A PRACTICAL GUIDE 41, 53 (Lise Østergaard ed., 1992) (describing the effect of patriarchal assumptions on a Gambian development project).

197. The 1977 U.N. report on “Women in Rural Areas” noted that among projects which had then recently been approved for implementation at the national level, four related to rural women, and one of these was described as “[r]esearch in five countries on the impact of modernization on rural women, and attitudes towards the roles of

of “monitor[ing] the changes in the rural economy from a gender equality perspective” because the “empowerment of women is ‘smart economics’” in light of their “critical role” in rural places.¹⁹⁸ As a consequence, “addressing gender inequalities can increase the efficiency of resource use and enhance rural development outcomes.”¹⁹⁹

Further, various commentators have focused on poor rural women, sometimes treating “rural” as virtually synonymous with “poor.” These commentators have noted the particular struggles that rural women—especially indigenous women—face. Aída González Martínez, for example, has written that “[c]ustoms, attitudes, beliefs, and traditions” in Latin America “discriminate against women in general, but women in rural or farming areas are specifically vulnerable regarding their limited access to health care, especially reproductive health services, education, employment, land ownership, and community decision-making processes.”²⁰⁰

In a somewhat similar vein, Martha Nussbaum’s work—while focusing broadly on human rights and capabilities for all—has asserted that within any population—even among greatly impoverished and otherwise disadvantaged groups—women experience added disadvantage.

Women in much of the world lack support for fundamental functions of a human life. They are less well nourished than men, less healthy, more vulnerable to physical violence and sexual abuse. They are much less likely than men to be literate, and still less likely to have preprofessional or technical education. Should they attempt to enter the workplace, they face greater obstacles . . . frequently, without effective legal recourse.²⁰¹

Nussbaum cites the United Nations 1997 *Human Development Report* for the proposition that no country in the world “treats its women as well as its men, according to a complex measure that includes life expectancy, wealth, and education.”²⁰² She observes that the problem is particularly acute in developing countries, where “[g]ender inequality is strongly correlated with poverty.”²⁰³ The situation of rural women in the developing world is particularly dire because

women and their integration in development.” A/32/269, *supra* note 30, ¶ 15.

198. RURAL WOMEN IN A CHANGING WORLD, *supra* note 55, at 3.

199. *Id.* The United Nations has long viewed women as an important site of intervention in rural development activity. See A/32/269, *supra* note 30, ¶ 15.

200. Martínez, *Rights of Rural Women*, *supra* note 2, at 213.

201. NUSSBAUM, WOMEN AND HUMAN DEVELOPMENT, *supra* note 26, at 1.

202. *Id.* at 2 (citing United Nations Development Programme, *Human Development Report 1997*, 39 (1997)).

203. *Id.* at 2-3.

they live in the least developed places—the doubly undeveloped, if you will—with the least basic needs infrastructure and the fewest services and opportunities.

But Article 14(2)(f) is not the only place where CEDAW takes on patriarchy and its manifestation in the public-private divide. Article 13 stipulates that “[t]he right to participate in recreational activities, sports and all aspects of cultural life” are among women’s economic and social rights.²⁰⁴ Article 14(2)(f) also seems to complement Article 7, which mandates that States Parties “eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure . . . the right [t]o vote in all elections . . . and to be eligible for election to all publicly elected bodies,” the right to participate in formulating and implementing government policy, the right “to hold public office and perform all public functions at all levels of government,” and the right to “participate in non-governmental organizations and associations concerned with the public and political life of the country.”²⁰⁵ Article 11 seeks women’s inclusion in a range of economic activities, including many outside the home and in the market.²⁰⁶ CEDAW thus includes various provisions that aim to bring women into the public sphere. Article 14(2)(f) appears to be principally a rural equivalent or compliment to this broader effort to bridge the public-private divide.

Article 14(2)(g): To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes[.]²⁰⁷

This provision is one of several that links rural livelihoods to agriculture and, by extension, the land. Like many other United Nations organizations and documents, Article 14(2)(g) recognizes the significance of women’s roles in food production.²⁰⁸ Indeed, women produce about half of the world’s food for direct consumption,²⁰⁹ with 428 million women worldwide working in the agricultural sector.²¹⁰ In

204. CEDAW, *supra* note 1, art. 13(c).

205. *Id.* art. 7.

206. *Id.* art. 11; *see also id.* art. 13(b) (regarding access to credit).

207. *Id.* art. 14(2)(g).

208. *See, e.g.,* SOURCEBOOK, *supra* note 30, at 317-19, 392 tbl. 9.6; A/32/269, *supra* note 30, ¶¶ 4-5; Women’s Rights in Agriculture, *supra* note 149, at 115, 117-19; *International Day of Rural Women*, *supra* note 55.

209. ESCOBAR, *supra* note 107, at 173; *see also* Burrows, *supra* note 2, at 447 (“In the developing countries the bulk of the population is employed in the agricultural sector and much of the work done in these areas is performed by women.”).

210. *International Day of Rural Women*, *supra* note 55 (citing Int’l Labour Org. [ILO], *Global Employment Trends for Women* (2008), available at http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_091225.pdf). By compari-

many regions it is the principal sector for women's employment.²¹¹ In the labor forces of less developed countries, two-thirds of women work in agriculture.²¹² Yet in spite of their widespread significance to food production, "women own less than two percent of the land worldwide, and they receive less than ten percent of the available credit."²¹³

Article 14(2)(g) responds to such deficits by mandating equal access to agricultural credit and loans, as well as better access to land title via "land and agrarian reform."²¹⁴ Article 14(2)(g) appears to have been influenced by various U.N. reports that preceded the Commission's work. General Assembly Resolution 1213 on Land Reform (1967) drew on a report of the 1966 World Land Reform Conference and emphasized "the importance of supporting institutional measures in the fields of credit, marketing, rural extension, co-operatives and peasant organizations and other related measures necessary for the implementation of effective agrarian reform."²¹⁵ A World Conference on Agricultural Credit in 1975 resulted in the establishment of regional agricultural credit associations²¹⁶ and may have

son, 608 million men work in this sector. *Id.*

211. *Id.* (reporting that sixty-eight percent and sixty-one percent of women who work in Sub-Saharan Africa and in South Asia, respectively, are employed in agriculture). Taking into account both self-employment and wage labor, women provide more labor in agriculture than men in a number of regions, including Asia, Sub-Saharan Africa, the Middle East, North Africa, and some Caribbean and Central American countries. SOURCEBOOK, *supra* note 30, at 317.

212. RURAL WOMEN IN A CHANGING WORLD, *supra* note 55, at 9.

213. Pruitt, *Migration, Development*, *supra* note 2, at 722 (citing INT'L LABOUR ORG. [ILO], WORLD COMMISSION ON THE SOCIAL DIMENSION OF GLOBALIZATION, A FAIR GLOBALIZATION: CREATING OPPORTUNITIES FOR ALL, at 48 (2004), available at <http://www.ilo.org/public/english/wcsdg/docs/report.pdf>).

214. CEDAW, *supra* note 1, art. 14(2)(g); see also A/32/269, *supra* note 30, ¶¶ 5, 19 (discussing the need for land reform in order to empower rural women).

215. E.S.C. Res. 1213(XLII), U.N. Doc. E/RES/1213(XLII) (June 1, 1967).

216. Food and Agric. Org. of the United Nations, *Regional Agricultural Credit Associations*, RURAL INFRASTRUCTURE AND AGRO-INDUSTRIES DIVISION, <http://www.fao.org/ag/ags/subjects/en/ruralfinance/RACA.html> (last visited Jan. 31, 2011). The Report details the importance of credit to small farmers and makes recommendations for central banks. It recommends that member governments

(a) take urgent steps to arrange for small farmers to have access to institutional credit, both so as to facilitate their development, and to reduce the burden of chronic debt owed to non-institutional sources, and the financial hardship caused by natural calamities, associated with this sector; (b) provide adequate financial and other support to agricultural credit institutions to enable them to meet all the legitimate credit needs of potentially viable as well as viable small farmers[.]

Id. at 12, II (a) and (b).

The Conference also recommends "that governments ensure easy physical access to agricultural credit, either by means of cooperatives or by networks of branch banks." *Id.* at 15, II(b).

Finally, "[i]t was agreed also that loans to small farmers should have enough flexibility to apply to all crops in the total rotation." *Id.* at 19.

addressed issues specific to women. Women's access to agricultural credit and loans was highlighted as an area needing further research in the preliminary report that the Secretary-General submitted to the General Assembly at its thirty-first session in 1976,²¹⁷ but the research and report were not yet complete when CEDAW was adopted in 1979.

While CEDAW Article 13 grants women a "right to bank loans, mortgages and other forms of financial credit,"²¹⁸ the provisions of (2)(g) are otherwise distinct from that Article (on economic and social life) and Article 11 (about employment). Other parts of (2)(g) are without apparent parallels outside the rural context; these relate to economic rights and empowering women by providing marketing facilities and appropriate technology.²¹⁹ A 1979 U.N. Document provides a definition of "appropriate technology" that links the term to developing countries: that "within the context of technology acquired for development plans in many less developed countries, taking into account human resources, currency available, impact on the labour market, labour-intensive versus capital-intensive technology, and the social consequences that the specific technology brings into a society."²²⁰

Section 14(2)(g) is one provision where recognizing the rights of women was somewhat controversial, with delegates suggesting that rural men, too, faced the sorts of challenges to which this provision was intended to respond. According to the *Travaux Préparatoires*, "[a] few representatives stated that they could not see why the

The report seems to assume that farmers are men because it uses the pronouns "him" and "his." Statement by the Vice President of the World Bank, at 7.

217. U.N. Doc A/31/205 at 5-8 (Dec. 22, 1976) (proposing "further research on the extent to which women participate in agriculture, industry, trade, and science and technology"). This Report specifically draws attention to issues facing women engaged in agriculture. It calls for policy recommendations and actions that will upgrade women's participation not only in agriculture, but also in "industry, trade sciences and technology." *Id.* Regarding agriculture, it calls specifically for study of the "composition of the rural labor force by sex," "agricultural economy and structure," social organization, trade and financing, women's wages, "credit and loans to women," "transfer technology and women," women's participation in training programs, and the science and technology needed for women to enhance their skills. *Id.*

218. CEDAW, *supra* note 1, art. 13(b).

219. This language echoes some in a 1977 U.N. document, which calls for "the development of programmes of assistance for women in agricultural production, processing and marketing with special attention to food preparation, preservation and consumption." A/32/269, *supra* note 30, ¶ 5.

220. A/34/60, *supra* note 71, ¶ 165. Another document refers to technology in relation to generating energy: "electric power and other types such as draft animal and mechanization and other specific technological improvement to generate cheap energy and decrease women's overwork without pay." A/31/205 (Dec. 22, 1976) subp. (4)(22)(c). Yet, another refers to the use of "appropriate technology" to "alleviate the drudgery of rural women's work" and "to reduce the heavy workload of women and increase their productivity." A/32/269, *supra* note 30, ¶¶ 3, 5.

content of this subparagraph should apply only to women.”²²¹ The Ghanaian representative said she had queried this when the amendment was being drafted, and other co-sponsors had explained “that discrimination in these sectors existed in some countries.”²²² Once again, this discussion suggests concern with spatial inequalities—with what entire rural populations are more likely than their urban counterparts to be lacking.

In spite of CEDAW coming into force some three decades ago, the 2008 data regarding women’s credit and land ownership are so appalling as to suggest the complete inefficacy of the provision.²²³ Women’s inability to obtain agricultural credit can lead to their reliance on the informal sector to meet their needs, which can be exploitative of poor producers.²²⁴ Moreover, “women own very little agricultural land,”²²⁵ which in some countries hampers their ability to obtain credit.²²⁶

Article 14(2)(h): To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.²²⁷

As already noted, CEDAW has been touted as reflecting greater concern regarding socioeconomic rights than prior human rights treaties, and this is arguably most evident in Article 14(2)(h). Indeed, neither housing nor the types of communal infrastructure specified in subsection (2)(h) are mentioned elsewhere in CEDAW. The reason may be that shared infrastructure that the State typically finances and provides—sanitation, electricity, water, transport, and

221. A/34/60, *supra* note 71, ¶ 170.

222. *Id.* (adding that the Swedish representative gave some illustrations of this, but not including these illustrations in the document). Whether the Ghanaian representative was referring to gender discrimination or some other basis of discrimination is unclear.

223. See Oona A. Hathaway, *Do Human Rights Treaties Make a Difference?*, 111 YALE L.J. 1935, 2006-10 (2002) (analyzing the correlation between compliance requirements and ratification of international human rights treaties).

224. RURAL WOMEN IN A CHANGING WORLD, *supra* note 55, at 31.

225. *Id.* at 27.

226. *Women’s Rights in Agriculture*, *supra* note 149, at 20-21 (listing the Dominican Republic and Honduras as among these countries).

Requiring the authorization of the husband for women’s application for credit and mortgage is a widespread practice adopted by financial institutions. In Jamaica, only 5 percent of the loans of the Bank of Agricultural Credit goes to women. . . . In a study from the Andean region, only 29 percent of interviewed women had applied for a loan (compared to 43.2 percent of men); 91 percent of women applicants had been granted the loan (compared to 85 percent for men).

Id. at 114.

227. CEDAW, *supra* note 1, art. 14(2)(h).

communication—is taken for granted in urban areas, where it is far more likely to be in place.²²⁸

This sub-provision of Article 14(2), which was not in the initial draft of what became Article 14, was proposed by Bangladesh, Ghana, Guyana, India, Kenya, New Zealand, Sweden, and the United Kingdom.²²⁹ The inclusion of this language, like that of (2)(f), seems to have been uncontroversial, although the drafting history indicates that the Dutch representative called for a “similar provision [to be] included for all women” in Article 13, which addresses other aspects of economic and social life.²³⁰ The chairman proposed proceeding on the understanding that if urban women were to enjoy these rights in the way they were specified for rural women in 14(2)(h), “provisions to this effect should be included among the general provisions of the Convention.”²³¹ Such provisions were not ultimately included outside 14(2)(h), which suggests that the same socioeconomic rights are not due to urban women, or to urban populations more generally.

In part because of these rights’ association with rural populations, section (2)(h) is the part of Article 14—and, indeed, all of CEDAW—that appears most concerned with spatial inequality. This is partly because (2)(h) specifies certain socioeconomic rights, the fulfillment of which would almost certainly benefit rural men as much as rural women. For example, if member states live up to their obligations under (2)(h)—to provide the sort of infrastructure necessary for rural women to have sanitation, water, electricity, and communication—they will necessarily be making these services available to rural men.²³² In fact, any member state that meets its obligations under (2)(h) will be making a major contribution to ameliorating the consequences of uneven development.

As such, compliance with section (2)(h) is potentially very costly to member states, especially to those at early stages of development. That is, (2)(h) imposes real fiscal burdens in ways that many other provisions of CEDAW do not. Aída González Martínez, former Ambassador for Mexico and Member and Chair of the CEDAW Committee, has observed, for example, that small public coffers have limited

228. See Pruitt, *India’s Rural Remnant*, *supra* note 41 (detailing the availability of core infrastructure such as advanced sanitation and water across the rural-urban axis); see also SEN, *supra* note 84, at 3 (noting that “public facilities” are implicated in relation to poverty and well-being, along with “systemic social deprivation” and “intolerance”).

229. REHOF, *supra* note 42, at 157 (citing U.N. Doc. A/C.3/33/WG.1/CRP.10, 1-2).

230. A/34/60, *supra* note 71, ¶ 172.

231. *Id.*

232. See DIANE ELSON, BUDGETING FOR WOMEN’S RIGHTS: MONITORING GOVERNMENT BUDGETS FOR COMPLIANCE WITH CEDAW, 58-59 (U.N. Dev. Fund 2006) (noting that public services such as paved roads, sanitation systems, defense, and policing cannot be broken down into individual units, but instead, are enjoyed by entire communities).

several Latin American member states' efforts to provide sanitary services, road and irrigation infrastructure, and the electrical, water, transport, and communication services called for in Article 14(h).²³³

In *Budgeting for Women's Rights*, Diane Elson observes that "geographical distribution of infrastructural facilities" may reveal spending patterns that are gendered.²³⁴ She notes, for example, that if women and girls comprise a higher percentage of rural populations than do males, low infrastructure spending in rural areas may reflect gender bias.²³⁵ Spending priorities within a given geographical area may also reflect gendered priorities (e.g., roads and sanitation systems).²³⁶ Therefore, Elson argues, all groups of women should be involved in establishing spending priorities,²³⁷ an idea reflected in 14(2)(a)'s inclusion of rural women in "all levels" of development planning.

*Rural Women in a Changing World*²³⁸ highlights continuing inadequacies in rural living conditions. Citing a 2005 World Health Organization study, the report states that, in developing countries, a mere thirty-one percent of rural areas have adequate access to safe water and basic sanitation, while seventy-three percent of those in urban areas do.²³⁹ More recently, a 2010 study reports that many girls and women travel more than an hour each day to gather water.²⁴⁰ Various countries have invested in efforts to improve access to safe water and sanitation, but the majority of the world's rural women continue to endure unsanitary water supplies and otherwise inadequate living conditions.²⁴¹

233. Martínez, *Rights of Rural Women*, *supra* note 2, at 213 (noting that limited state resources have also impeded member states' efforts to provide health care).

234. ELSON, *supra* note 232, at 59; *see also* Denise Meyerson, *Equality Guarantees and Distributive Inequity*, 19 PUB. L. REV. 32, 32-51 (2008) (discussing distributive inequities in government spending as violations of equality guarantees in national constitutions).

235. ELSON, *supra* note 232, at 59.

236. *Id.*

237. *Id.* at 58. This is consistent with what has happened in India with the mandatory representation of women in local government; *see supra* note 108 and accompanying text.

238. RURAL WOMEN IN A CHANGING WORLD, *supra* note 55 at 2-3.

239. *Id.* at 29.

240. Gayatri Koolwal & Dominique van de Walle, *Access to Water, Women's Work and Child Outcomes* 5 (World Bank, Policy Research Working Paper No. 5302, 2010), available at http://econ.worldbank.org/external/default/main?pagePK=64165259&theSitePK=469382&piPK=64165421&menuPK=64166093&entityID=000158349_20100510114112.

241. *See* RURAL WOMEN IN A CHANGING WORLD, *supra* note 55, at 28-29 (discussing water provision programs and continuing lack of adequate access to water). Morocco is among the nations to report affirmative steps toward increasing rural populations' access to clean water through the enactment of The Water Supply Programme for Rural Populations (PAGER). *Id.* PAGER has expanded safe water access to fifty percent of Morocco's rural areas in its first decade, resulting in improved public health and sanitation, as well as a twenty percent increase in rural girl's primary school attendance. *Id.*

V. ARTICLE 14'S EXPRESSIVE SIGNIFICANCE

Three decades after CEDAW's ratification, it is worth pondering the material and expressive impact of Article 14's attention to rural women.²⁴² The *Rural Women in a Changing World* report and the *Gender in Agriculture Sourcebook* help us assess the former,²⁴³ as do the numerous reports that member states have filed with the United Nations to report their progress under the Convention.²⁴⁴ While signs of progress are mixed, we can safely assume that the very inclusion of rural women and rural concerns on the checklist of matters about which member states must report has increased rural women's visibility among domestic law and policy makers.²⁴⁵ Very rare is the member state that indicates in its periodic report to the United Nations that it has nothing to say about Article 14 and rural women.²⁴⁶ It is nevertheless rarely possible to say with certainty whether nations have altered their development programming in response to CEDAW's Article 14, or whether they are simply listing in their periodic reports to the United Nations their laws and programs which happen to be beneficial to rural women. In short, cause and effect are difficult to determine.

Like developing countries, member states from the Global North also regularly mention rural women in their reporting under CEDAW, though these entries are rarely as lengthy as those of developing nations.²⁴⁷ When developed countries do report progress and

242. See Diane Marie Amann, *Group Mentality, Expressivism, and Genocide*, 2 INT'L CRIM. L. REV. 93, 117-20 (2002) (explaining the expressivist thread in legal scholarship and law's role in influencing society's values).

243. RURAL WOMEN IN A CHANGING WORLD, *supra* note 55, at 2-3.

244. See Pruitt, *Migration, Development*, *supra* note 2, at 733-36 (discussing CEDAW's reporting obligations on member states); see also *id.* at 735-47 (discussing the progress that Ghana, India, China and South Africa have reported in relation to CEDAW's Article 14). Critiques of CEDAW and the apparent inefficacy of its enforcement and reporting procedures provide a balanced perspective. See, e.g., Evatt, *supra* note 8, at 449 (discussing CEDAW's ability to effect change); Hillock, *supra* note 6, at 487, 512-13 (arguing that CEDAW's reporting procedures are overly complex and that its provisions create a "perpetual state of bondage [that] has no place within a true democratic society").

245. See Pruitt, *Migration, Development*, *supra* note 2, at 736-39 (discussing changes to land tenure laws in Ghana, India, South Africa).

246. *But see* Comm. on the Elimination of Discrimination against Women, Third Periodic Rep. of States Parties: Singapore, 49, U.N. Doc. CEDAW/C/SGP/3 (Nov. 22, 2004) (stating that Singapore is a city state with no rural population).

247. See, e.g., Comm. on the Elimination of Discrimination against Women, Sixth Periodic Rep. of States Parties: Austria, 68-71, U.N. Doc. CEDAW/C/AUT/6 (Nov. 1, 2004) [hereinafter Austria Report] (including four pages regarding Article 14, providing details of training and educational opportunities for rural women); Comm. on the Elimination of Discrimination against Women, Fourth Periodic Rep. of States Parties: Netherlands, 77-79, U.N. Doc. CEDAW/C/NLD/4 (Feb. 10, 2005) [hereinafter Netherlands Report] (including

challenges under Article 14, they tend to focus on women's roles in agriculture,²⁴⁸ access to services such as health care, education,²⁴⁹ and job creation and training.²⁵⁰ They less often address issues such as cooperatives and self-help groups or women's involvement in development planning.²⁵¹ Still, Article 14 challenges the developed world's tendency to conflate "rural" with "developing." It prompts law and policy makers in the Global North to think about the relevance of the rural-urban axis and the particular needs of rural women and their

three pages related to Article 14). *But cf.* Comm. on the Elimination of Discrimination against Women, Combined Fourth and Fifth Periodic Reps. of States Parties: Australia, 101-11, U.N. Doc. CEDAW/C/AUL/4-5 (Feb. 3, 2004) [hereinafter Australia Report] (listing numerous initiatives by both the federal and state governments).

248. See Austria Report, *supra* note 247, at 68-71 (noting that as much as forty-one percent of agricultural holdings by natural persons were held by women); Comm. on the Elimination of Discrimination against Women, Combined Fourth and Fifth Periodic Reps. of States Parties: Ireland, 107, U.N. Doc. CEDAW/C/IRL/4-5 (June 10, 2003) ("The Government in the 'Action Programme for the Millennium' made a commitment 'to recognise the role of women in agriculture by setting up a special Advisory Committee to advise on, and monitor progress, with policy initiatives to support women in agriculture.'"); Netherlands Report, *supra* note 247, at 62 (stating that rural women are rarely employed in agriculture, but rather are married to or living with farmers and noting that these women are employed in sectors other than agriculture; *id.* at 79 (reporting results from a study of the number of women and the role of women in agriculture and horticulture and their roles in these enterprises).

249. Australia Report, *supra* note 247, at 83, 102 (detailing health care initiatives in rural communities and reporting the Rural Transactions Centres Programme, which establishes multi-purpose centres in rural communities); Austria Report, *supra* note 247, at 69 (noting "a number of further education training and upskilling programmes were conducted . . . [e]ducation is considered as the key to success"). Japan reports that the level of women's involvement in cooperatives is low, at 13.3 percent, while women's representation among agricultural committee members is lower still, at less than one percent. See Comm. on the Elimination of Discrimination against Women, Fourth Periodic Reps. of States Parties: Japan, 41, U.N. Doc. CEDAW/C/JPN/4 (Aug. 28, 1998) [hereinafter Japan Report].

250. See Austria Report, *supra* note 247, at 69 (noting "further education training and upskilling programs"); Swedish Report, *infra* note 251, at 54 (reporting that Swedish rural development programme promotes "women's chances of finding employment and starting businesses in rural areas").

251. *But see* Australia Report, *supra* note 247, at 101-03 (reporting the establishment of Regional Women's Advisory Council in September 1999).

The Council's role is to provide a conduit for the views and perspectives of women in regional and rural Australia on social and economic development issues. The Council, through the Minister, also provides input to government decision-making to ensure that the views of women in regional areas are taken into account in the development of policies and programmes for regional Australia.

Id.; see also Comm. on the Elimination of Discrimination against Women, Combined Sixth and Seventh Periodic Reps. of States Parties: Sweden, 54, U.N. Doc. CEDAW/C/SWE/7 (Sept. 14, 2006) [hereinafter Swedish Report] (noting that women have an equal say with men in transport planning and priorities); Japan Report, *supra* note 249, at 42 (reporting efforts to promote rural women's involvement in community activities). France explicitly mentions the significance of "the role of associations in rural development." Comm. on the Elimination of Discrimination against Women, Sixth Periodic Rep. of States Parties: France, 60, U.N. Doc. CEDAW/C/FRA/6 (Apr. 6, 2006).

communities, many of which relate to infrastructure and the delivery of key services, such as health care and education.²⁵² Like their developing world counterparts, rural women in developed nations also stand to benefit from Article 14's attention to economic empowerment (e.g., credit, marketing, and extension services),²⁵³ and some developed nations do address this, though rarely in relation to agriculture.²⁵⁴ Developed countries also tend to mention the provision of

252. *E.g.* Lisa R. Pruitt, *Place Matters: Domestic Violence and Rural Difference*, 23 WIS. J.L. GENDER & SOC'Y 347, 362 (2008); Pruitt, *Spatial Inequality*, *supra* note 73, at 6; Lisa R. Pruitt, *The Forgotten Fifth: Rural Youth and Substance Abuse*, 20 STAN. L. & POL'Y REV. 359, 359 (2009). Interestingly, a 1977 U.N. Document that is closely associated with CEDAW expresses concern about deficits in social services in rural contexts. A/32/269, *supra* note 30, ¶¶ 3, 5, 19, 20; *see also* E/CN.6/L.660/Add.7, *supra* note 130, ¶ 112 (suggesting the importance of social services).

253. *See* Burrows, *supra* note 2, at 447-48 (noting the value to women of agricultural credit on the same terms as men in "countries at different levels of development"). While the United States is not a party to CEDAW, it recognizes this problem. *See* NAT'L AGRIC. STATISTICS SERV., 2007 CENSUS OF AGRICULTURE, 54 tbl.50, 58 tbl.54 (2009), *available at* http://www.agcensus.usda.gov/Publications/2007/Full_Report/usv1.pdf (reporting that Commodity Credit Corporation Loans (CCC Loans) and Federal Farm Program Payments rates differ between farms principally owned by women and men). The 2007 Census of Agriculture reported that 0.48% of farms principally owned by women received CCC Loans, while 2.29% of all farms received the same loan. *Id.* Farms principally owned by women had a higher rate of Conservation Reserve, Wetlands Reserve, Farmable Wetlands, or Conservation Reserve Enhancement Programs. *Id.* Other federal farm program payments were given at a rate of 18.22% to women's farms and at a rate of 31.18% for all farms. *Id.*; *see also* Cesar L. Escalante, James E. Epperson & Uthra Raghunathan, *Gender Bias Claims in Farm Service Agency's Lending Decisions*, 34 J. AGRIC. & RESOURCE ECON. 332, 337 (2009) (discussing female farm owners in Montana who "sued the USDA for gender discrimination in the administration of FSA farm loan programs"). The women claimed they were denied the chance to apply and that they were not provided with adequate loan service when they did apply. *Id.*; *see also* *Garcia v. Vilsack*, 563 F.3d 519 (D.C. Cir. 2009), *cert. denied*, 130 S. Ct. 1138 (2010) (affirming the dismissal of the women's APA claims as barred by an alternative form of relief under the Equal Credit Opportunity Act).

254. *See* Swedish Report, *supra* note 251, at 54 (reporting that the Swedish rural development programme promotes "women's chances of finding employment and starting businesses in rural areas"); Comm. on the Elimination of Discrimination against Women, Combined Sixth and Seventh Periodic Repts. of States Parties: Canada, 40, 58, U.N. Doc. CEDAW/C/Can/7 (Aug. 17, 2007) [hereinafter Canada Report] (reporting that Ontario "delivers the Community Futures Program" to fund "women-targeted projects[.] . . . 529 women-led businesses received loans," and that Prince Edward Island gives attention to economic development in rural communities); Australia Report, *supra* note 247, at 101 (reporting "principles, strategies and best practice case studies to assist organisations to better support the roles of women in agriculture and resource management" contained in the Commonwealth-State Standing Committee on Agriculture and Resource Management publication *A Vision for Change: National Plan for Women in Agriculture and Resource Management*); *id.* at 102 (reporting 14.5 million dollars in funding for the Foundation for Rural and Regional Renewal). *But see* Austria Report, *supra* note 247, at 70 (recognizing women farmers' economic contributions); Japan Report, *supra* note 249, at 42-43 (reporting "technological guidance and information on management and funds to rural women who want to start farming," and also reporting "home economics extension service" that is beginning to focus more on "improvement of agricultural work, the coordination of farming and living plans").

child care as a service to rural women, at least implicitly recognizing how critical it is to their economic productivity.²⁵⁵

CEDAW's rural exceptionalism—that is, its naming of rural difference by including an entire Article addressing rural women's needs—thus seems at first blush a positive turn for rural populations, who are often rendered invisible to decision makers by virtue of spatiality, as well as their lack of political and economic power.²⁵⁶ But CEDAW does not mainstream or truly integrate rural women and their concerns because it cabins them in a single article. The Convention effectively designates rural women as “other,”²⁵⁷ suggesting that the Convention as a whole is primarily about urban women. “Women unmodified”—those outside Article 14, that is—are thus actually urban women, the implicit norm. Not only are urban women the norm, CEDAW's language suggests that rural women are often entitled to less than their urban counterparts in terms of key rights, such as health care and education.

In a similar vein, Professor Darren Rosenblum has argued that CEDAW's gender “equality strategy presumes as normative the masculine standard,” which “foster[s] a harmful binary that places women in the inferior position.”²⁵⁸ He argues that such “opposing visions of

255. See Canada Report, *supra* note 254, at 40 (“The Live-in Caregiver Program (LCP) assists Canadian and permanent resident employers to recruit caregivers to live and work in their homes to provide childcare, home support for seniors or the disabled.”); *id.* at 105 (“Flexible and affordable childcare in rural areas is a challenge in improving the economic security of rural women.”); Austria Report, *supra* note 247, at 65, 69 (including rural women in the child-care benefit programs); Netherlands Report, *supra* note 247, at 77 (reporting an expert meeting entitled “Diversity in combining work and care”).

256. Pruitt, *Migration, Development*, *supra* note 2, at 751-52; Pruitt, *Gender, Geography*, *supra* note 42, at 370, 371 & nn.204-205 (quoting NEIL WEBSDALE, RURAL WOMAN BATTERING AND THE JUSTICE SYSTEM 49 (1998) who argues patriarchy in rural areas is shaped around “women's more limited opportunities for survival in the wage labor market”); see also KNOWING YOUR PLACE: RURAL IDENTITY AND CULTURAL HIERARCHY 2, 17 (Barbara Ching & Gerald Creed eds., 1997) (noting that “the rural/urban distinction underlies many . . . power relations” and that “the city remains the locus of political, economic and cultural power”).

257. Rosenblum, *supra* note 17 (discussing the “otherness” of women in general created by “women's rights discourse”) (citing Dianne Otto, *Disconcerting ‘Masculinities’: Reinventing the Gendered Subject(s) of International Human Rights Law*, in INTERNATIONAL LAW: MODERN FEMINIST APPROACHES 105, 106 (Doris Buss & Ambreena Manji eds., 2005)).

258. *Id.*

As Dianne Otto argues, the emphasis on certain “female subjectivities” establishes the “otherness” of women in women's rights discourse. Otto identifies three “female subjectivities” reproduced by human rights discourse, each of which is marginalized by a corresponding masculine subject. First, the wife and mother requires protection and “is more an object than a subject of international law.” Men, as heads of households, form the masculine component of this binary. The second subjectivity is the “formally equal” woman, whose role in public life is measured by the extent to which it matches the implicit “masculine standard of ‘equality’ against which her claims to equality are

the masculine and feminine ‘organize[] sex/gender as a hierarchy, with the masculine assuming the position of authority.’”²⁵⁹ Rosenblum thus endorses Dianne Otto’s call to “dismantle the hierarchical binary of gender” by reconceiving it “as fluid and formulated as a hybrid.”²⁶⁰

Similar concerns are raised by the rural-urban binary manifest in CEDAW. Indeed, analogous to Rosenblum and Otto’s point regarding the gender binary is rural sociologist Ann Tickamyer’s call for movement past “binary spatial distinctions,” such as the rural/urban dichotomy, favoring instead “spatial continua.”²⁶¹ Yet CEDAW embraces the rural/urban dichotomy, segregating rural women in Article 14 and leaving the remainder of the Convention—its rhetorical and substantive bulk—to be primarily about urban women, who represent both norm and superiority. CEDAW thereby reinforces politically and in law the marginalization that rural women already experience by virtue of the physical geography that separates them from centers of power. An unintended downside to naming the category “rural women” is thus the privileging of the urban and a corresponding marginalization of the rural.

On the other hand, to name a group and endow them with rights is a powerful symbol—and it may also have powerful material consequences. As Hilary Charlesworth has pointed out, “rights discourse offers a recognized vocabulary to frame political and social wrongs” for those who have been historically disadvantaged.²⁶² She notes other prominent critical scholars’ defense of rights rhetoric, including Patricia Williams’s statement that “[r]ights” is “deliciously empowering to say” and “a sign for and a gift of selfhood,” as well as Martha

assessed” This equality strategy presumes as normative the masculine standard, thereby fostering a harmful binary that places women in the inferior position. Third is the female victim “produced by colonial narratives of gender” and the perceived “sexual vulnerability” of women. The male homologue for this subjectivity is the masculine bearer of “‘civilization’ and savior of ‘good’ women from ‘bad’ often ‘native,’ men.”

. . . .

In reproducing these hierarchical binaries, CEDAW’s potential for transforming women’s lives is compromised. Most of the CEDAW provisions follow a formal equality yardstick, measuring success as the extent to which men have access to a particular social position. The imprecision of the term “women” becomes clearer once we consider the different contexts in which “women” exist—they are wives and mothers, persons equal to men, and victims. Each of these subjectivities arouses a legal response within CEDAW. Most important is the extent to which the Convention renders invisible the individuals identified as women but do not fit into these three subjectivities.

Id. (citations omitted).

259. *Id.* at 22 (citation omitted).

260. *Id.* (citation omitted).

261. Ann R. Tickamyer, *Space Matters! Spatial Inequality in Future Sociology*, 29 CONTEMP. SOC. 805, 811 (2000).

262. Charlesworth, *supra* note 28, at 61.

Minow's reluctance to criticize rights language "just when [rights] have become available to people who had previously lacked access to them."²⁶³

Although the empowerment that may accompany "rights talk" and "rights endowment" is appealing, most of the women who stand to benefit from Article 14 are likely not aware of these rights. The vast majority of the world's rural women are in developing countries.²⁶⁴ The extent to which these women know about CEDAW generally, let alone Article 14 in particular, is doubtful.²⁶⁵ Further, as I have discussed elsewhere, rural women presumably have fewer opportunities than their urban counterparts to enforce their rights because of the relative absence of law and legal actors in rural places.²⁶⁶

Yet another indicator of the impact of CEDAW's explicit inclusion of rural women is its influence on other human rights instruments. Since CEDAW's drafting and ratification, three such instruments have followed CEDAW's lead in that they have also discussed the needs of rural populations. These instruments have done so, however, in ways that deviate from CEDAW's cabining rural people in a single article.

One of these, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Protocol),²⁶⁷ refers to women in rural areas in several different provisions that mirror the language of CEDAW's Article 14. Article 14(2)(a) of the Protocol

263. *Id.* (quoting Patricia Williams, *Alchemical Notes: Reconstructing Ideals from Deconstructed Rights*, 22 HARV. C.R.-C.L. L. REV. 401, 431 (1987); Martha Minow, *Interpreting Rights: An Essay for Robert Cover*, 96 YALE L.J. 1860, 1910 (1987)).

264. *See supra* note 41 and accompanying text (asserting that the majority of the developing world's population lives in rural areas).

265. *See* SALLY ENGLE MERRY, HUMAN RIGHTS AND GENDER VIOLENCE: TRANSLATING INTERNATIONAL LAW INTO LOCAL JUSTICE 179 (2006) (discussing laypersons' consciousness regarding international human rights); *see also* Heather Dawn Alexander, *Reversing the Disenfranchisement of Rural Women: Using CEDAW as a Case Study for the Incorporation of Anthropological Methodology into International Legal Research*, (2010) (unpublished manuscript) (on file with author); Evatt, *supra* note 8, at 449 (stating that as of 1991-92, women's NGOs were not yet very familiar with CEDAW).

266. Pruitt, *Migration, Development*, *supra* note 2, at 750-51.

267. Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, July 11, 2003, OAU Doc. CAB/LEG/66.6 [hereinafter *Women's Protocol to the African Charter*], available at <http://www.africa-union.org/root/au/Documents/Treaties/Text/Protocol%20on%20the%20Rights%20of%20Women.pdf> (adopted by the 2nd Ordinary Session of the Assembly of the Union Maputo); *see also* African Union, List of Countries Which Have Signed, Ratified/Accessed to the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, (July 22, 2010) <http://www.africa-union.org/root/au/Documents/Treaties/List/Protocol%20on%20the%20Rights%20of%20Women.pdf> (indicating that as of July 22, 2010, forty-six of fifty-three countries in the African Union have signed and ratified the African Charter on Human and Peoples' Rights on the Rights of Women in Africa and twenty-eight have ratified it). For an excellent discussion of the Maputo Protocol's promise, including for rural women, see Bond, *supra* note 2, *passim* (assessing the potential efficacy of the Protocol).

mandates “adequate, affordable and accessible health services . . . to women especially those in rural areas,” whereas Article 19 on the “Right to Sustainable Development” includes the goal of “promot[ing] women’s access to credit, training, skills development and extension services at rural and urban levels in order to provide women with a higher quality of life and reduce the level of poverty among women.”²⁶⁸ The latter provision pairs rural with urban, suggesting that women in both types of places share similar needs in relation to economic development.

The African Youth Charter (Charter) also makes a number of references to rural youth, taking up some issues associated with rurality that CEDAW does not.²⁶⁹ At other points, it merely acknowledges geography, pairing rural and urban in a way similar to the Women’s Protocol to the African Charter.²⁷⁰ Specifically, the Charter includes a provision that calls for “revitalis[ing] vocational education and training” and “expand[ing] access by developing centres in rural and remote areas.”²⁷¹ Two provisions of the Charter are attuned to the role of amenities in rural areas as a means, apparently, of stemming rural-to-urban migration. Article 14(2)(a) seeks the “[e]nhance[ment of] the attractiveness of rural areas to young people by improving access to services and facilities such as educational and cultural services,”²⁷² while Article 22 on Leisure, Recreation, Sportive and Cultural Activities calls for “[p]ut[ting] in place adequate infrastructure and services in rural and urban areas for youth to participate in sport, physical education, cultural, artistic, recreational and leisure activities.”²⁷³ This latter provision suggests the rural-urban binary and the equal importance and needs of both types of places.

Finally, Article 16 on “Health” suggests that rural places are similar to poor urban places in its call for “[m]ak[ing] available equitable and ready access to medical assistance and health care especially in rural and poor urban areas with an emphasis on the development of primary health care.”²⁷⁴ Unlike CEDAW’s Article 14(2)(b), the

268. Women’s Protocol to the African Charter, *supra* note 267, at 15, 17-18.

269. African Youth Charter, July 2, 2006, 10 [hereinafter Youth Charter], available at www.africa-union.org/root/au/Documents/Treaties/Text/African_Youth_Charter.pdf (adopted by the 7th Ordinary Session of the Assembly of the Union Banjul) (containing a provision aimed at attracting young people to rural areas). Of fifty-three states in the African Union, thirty-eight have signed the African Youth Charter, and of those, twenty-two have ratified it as of June 8, 2010. African Union, List of Countries Which Have Signed, Ratified/Acceded to the African Youth Charter (June 8, 2010), <http://www.africa-union.org/root/au/Documents/Treaties/list/Youth%20Charter.pdf>.

270. Youth Charter, *supra* note 269, art. 16(2)(a), 22(1)(b).

271. *Id.* art. 13(4)(e).

272. *Id.* art. 14(2)(a).

273. *Id.* art. 22(1)(b).

274. *Id.* art. 16(2)(a).

Charter calls for equitable facilities and not merely adequate ones. With its mention of rural concerns and challenges in several different articles, the Charter reflects a more pervasive and mainstreaming approach to rural concerns than either CEDAW or the Women's Protocol to the African Charter.

The Convention on the Rights of Persons with Disabilities (Disabilities Convention), the most recent Convention to mention rural difference, also makes several references to the "rural."²⁷⁵ Article 9(1), for example, states in relevant part that member nations must provide disabled persons access, "on an equal basis with others, to the physical environment, to transportation, to information and communications . . . and to other facilities and services open or provided to the public, both in urban and in rural areas."²⁷⁶ The Disabilities Convention recognizes geography in a way more akin to the Charter by acknowledging both rural and urban. Other provisions evince recognition of spatial challenges associated with rurality by mandating provision of health services and habilitation and rehabilitation services "as close as possible to people's own communities, including in rural areas."²⁷⁷

All three of these post-CEDAW human rights instruments have handled rural difference and concern for rural populations in a way that could be seen as more pervasive and less marginalizing than CEDAW's Article 14. The breadth of expressed needs for rural populations is especially apparent in the Charter and the Disabilities Convention. These instruments approach rural difference more in terms of rural places and less in terms of rural people. They do so by acknowledging the consequences of rurality, which includes the

275. Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, art. 9(1), 25(c), U.N. Doc. A/RES/61/106 (Dec. 13, 2006) [hereinafter Disability Convention], available at <http://www.un.org/disabilities/convention/conventionfull.shtml>.

276. *Id.* art. 9(1); see also *Convention on the Rights of Persons with Disabilities*, UNITED NATIONS ENABLE, <http://un.org/disabilities/default.asp?id=150> (last visited Jan. 31, 2011).

The Convention on the Rights of Persons with Disabilities and its Optional Protocol was adopted on 13 December 2006 at the United Nations Headquarters in New York, and was opened for signature on 30 March 2007. There were 82 signatories to the Convention, 44 signatories to the Optional Protocol, and 1 ratification of the Convention. This is the highest number of signatories in history to a UN Convention on its opening day. It is the first comprehensive human rights treaty of the 21st century and is the first human rights convention to be open for signature by regional integration organizations. The Convention entered into force on 3 May [sic] 2008.

Id.; *Convention and Optional Protocol Signatures and Ratifications*, UNITED NATIONS ENABLE, <http://www.un.org/disabilities/countries.asp?id=166> (last visited Jan. 31, 2011) (showing that there are 147 signatories to the Convention, ninety signatories to the Optional Protocol, ninety-four ratifications of the Convention, and fifty-four ratifications of the Protocol).

277. Disability Convention, *supra* note 275, art. 25(c), 26(1)(b).

spatial and resource-based challenges to rural service delivery. This latter approach seems less marginalizing of rural populations. Still, had CEDAW not led the way in naming rural concerns, these treaties might not have acknowledged rural difference at all. If not for CEDAW, when would rural difference—which so often equates to rural disadvantage—have been seen by the international human rights community?

Finally, it is worth contemplating the changing relevance of Article 14 as the world becomes more urban by the day. While a 1977 document associated with CEDAW's drafting saw rural-to-urban migration as a tide to be stemmed,²⁷⁸ such thinking is now less evident among the international and development communities.²⁷⁹ Indeed, what I have elsewhere labeled the urban juggernaut²⁸⁰—a reference to the speed with which the world is becoming more urban by the day—may make rural places and rural development seem less relevant or necessary than ever.²⁸¹ But while cities' populations burgeon and their land areas sprawl worldwide, the rural populations of less developed countries continue to grow, having doubled since 1950.²⁸²

Concerns for rural women are thus as great in the developing world as they have ever been. Indeed, they are arguably greater as the urban juggernaut aggravates uneven development,²⁸³ disservices the rural, and diminishes the visibility and political significance of rural populations. Whatever its shortcomings, taking Article 14 seriously can help ameliorate these inequities.

278. A/32/269, *supra* note 30, ¶ 19.

279. U.N. Population Fund, *Urbanization and Sustainability in the 21st Century*, in STATE OF THE WORLD POPULATION 2007: UNLEASHING THE POTENTIAL OF URBAN GROWTH, at "Cities: Burden or Blessing?," available at http://www.unfpa.org/swp/2007/english/chapter_5/print/chapter_5.html (last visited Jan. 31, 2011).

280. Pruitt, *Migration, Development*, *supra* note 2, at 710; see also Pruitt, *India's Rural Remnant*, *supra* note 41.

281. AGRICULTURE FOR DEVELOPMENT, *supra* note 87, at 45. For example, in recent years rural-urban income gaps have narrowed in most regions except Asia. *Id.* Where the gap remains wide, as in Asia, it is a source of political tensions that are leading to "new efforts to stimulate agricultural and rural development." *Id.*

282. U.N. DEP'T OF ECON. & SOC. AFFAIRS, POPULATION DIV., URBAN AND RURAL AREAS 2007, U.N. Doc. ST/ESA/SER.A/276, U.N. Sales No.E.08.XIII.13 (2008).

Between 1950 and 1975, the rural populations of less developed regions increased by almost 2% annually; in more developed regions they decreased by 0.44% annually. Between 1975 and 2007, rural populations in less developed regions increased by slightly more than 1% and in more developed regions they decreased by 0.32%. During this period, urban populations increased in both developed and less developed regions.

Pruitt, *Migration, Development*, *supra* note 2, at 713 n.27 (citation omitted).

283. See UN-HABITAT, THE STATE OF AFRICAN CITIES 2010: GOVERNANCE, INEQUALITIES AND URBAN LAND MARKETS (2010), available at <http://www.unhabitat.org/documents/SACR-ALL-10-FINAL.pdf> (documenting the alarming rate of urbanization expected in Africa over the next few decades).