



**Convention on the Elimination
of All Forms of Discrimination
against Women**

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**Committee on the Elimination of Discrimination
against Women**
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Summary record of the 619th meeting

Held at Headquarters, New York, on Wednesday, 9 July 2003, at 10 a.m.

Chairperson: Ms. Ferrer Gómez (Vice-Chairperson)

Contents

Consideration of reports submitted by States parties under article 18 of the
Convention on the Elimination of All Forms of Discrimination against Women
(*continued*)

*Combined initial, second and third periodic reports and fourth periodic report
of Costa Rica*

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The meeting was called to order at 10.15 a.m.

In the absence of the Chairperson, Ms. Ferrer Gómez, Vice-Chairperson, took the Chair.

Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women (*continued*)

Combined initial, second and third periodic reports and fourth periodic report of Costa Rica (CEDAW/C/CRI/1-3 and CEDAW/C/CRI/4)

1. *At the invitation of the Chairperson, Ms. Britton (Costa Rica) took a place at the Committee table.*

2. **Ms. Britton** (Costa Rica) said that the delay in submitting the reports required under the Convention was largely due to the political and social environment in Costa Rica during the 1990s, which had not been conducive to the implementation of public policies with a gender dimension. Building on the commitments made in the Beijing Platform for Action in 1995, however, significant changes were made to strengthen the national mechanism for the advancement of women. The first report of Costa Rica had been prepared in 1998, but delays in the transmission and the backlog of reports before the Committee had prevented its timely consideration. The problems that had prevented timely submission of reports had now been overcome and there should be no further delays in future submissions.

3. The national poverty eradication strategy included two programmes aimed specifically at women heads of households and at adolescent mothers. The first programme included an education and job training component. By 2002, 19,094 women had benefited, and 467 indigenous women had participated. The women received monthly stipends during their vocational training, which lasted up to nine months. Government efforts to apply the Convention to indigenous women were concentrated mainly in the areas of education and health care. The National Commission on Indigenous Affairs (CONAI) had developed a plan for the development of indigenous peoples, which had not yet been fully implemented. Unfortunately, it did not contain any activities specifically for indigenous women.

4. The Act Promoting the Social Equality of Women, adopted in 1990, declared that the State and its institutions had an obligation to ensure that women did not suffer any form of discrimination because of their gender. Progress had been made towards incorporating the definition of discrimination into the Political Constitution and national legislation, but it had yet to be included explicitly. The Convention was not studied in detail in the Faculty of Law of the University of Costa Rica, nor in private universities. However, in 2002, INAMU had signed an agreement with the University of Costa Rica to develop a course in the Department of Human Rights on the Convention.

5. Turning to the situation of refugee women, she said that Costa Rica had a tradition of openness to refugees and of granting political asylum in accordance with the international treaties to which it was party. Refugees were granted temporary residence status without conditions. They were permitted to work without restriction, but did face problems finding jobs. An executive decree of 6 June 2003 stated that persons with refugee status could not return to their countries of origin, which had led many to seek resident status.

6. With regard to the relationship between the State and the Catholic Church, according to article 75 of the Constitution, Costa Rica was a “confessional State”: State funds were transferred to the Church to cover maintenance costs and as the equivalent of salaries for clergy. In 2003, the majority of members of the Chamber of Deputies had questioned those allocations, and they had been drastically reduced in the current budget. That move marked the continuation of a process of separation between the State and the Catholic Church, at least in terms of financial support, which had begun in 1993 when the Church had lost its tax exemption. INAMU had faced direct opposition to some of its programmes in the area of human sexuality from a number of conservative religious groups, including Opus Dei.

7. With regard to activities designed to disseminate the Convention, INAMU had revised the course developed for the Faculty of Law and was planning to offer it again. It could also be adopted to other public institutions of the judicial branch, the Legislative Assembly, the Bar Association, journalists and the Faculty of Education, the School of Social Work, etc.

8. Commenting on the place of international treaties in domestic law, she said that the executive branch

could introduce international treaties before the Legislative Assembly, which had the power to adopt them. It also had the power to enact laws and to incorporate such treaties into domestic law. The reluctance to incorporate the Convention directly in domestic law stemmed from lack of knowledge of the substance, sexist prejudices and the patriarchal structure of the legal system. However, the Convention had influenced domestic law and had often been referred to in discrimination cases. For sexual harassment, there was little jurisprudence, although the Supreme Court had ruled that it constituted discriminatory treatment. The Act on Sexual Harassment in the Workplace and in Education required employers to establish effective and adequate internal procedures to address such cases that protected the confidentiality of complainants and provided penalties for violators. Cases must also be reported to the national labour authorities.

9. Commenting on access to the justice system for indigenous women, she said that the First Circuit Court of Limón, located in Bribri, which covered the provinces with the highest indigenous population, had a small claims court, a lower court, a public defender's office, an investigator, a forensic pathologist and an administrative police station. More serious matters were taken up in Limón, a short distance away, but appeals and matters under the jurisdiction of the Constitutional Court must be dealt with in San José, the capital. The courts maintained a roster of accredited interpreters for indigenous languages, but their services were called on only three or four times per year.

10. In 2003, there were 430 women prisoners, representing 7 per cent of the prison population. There were no provisions for the special needs of women prisoners, although the Ministry of Justice had recently established a nursery to care for the children under 2 of incarcerated mothers. Most of the female prisoners were serving sentences for drug-related offences. Overcrowding was a problem; the prison population exceeded capacity by 45 per cent. Prisoners could file complaints about their treatment through the Public Defender.

11. Beginning in 1994, the National System of Care and Prevention of Domestic Violence reflected an integrated approach that included social, psychological, legal, educational and medical aspects of violence. In the initial stages, the political agenda had considered domestic violence to be a public health problem, but it

was now considered a violation of women's human rights which had public health implications. There was a lack of political consensus on criminalizing domestic violence specifically against women, however, because it was seen as discrimination against men. The judicial branch had established special units to investigate domestic violence and sexual assault, and had set up an office to provide services to victims. There was no specialized criminal court to deal with such cases; most were referred to the Family Court, which had interdisciplinary teams of judges, psychologists and social workers specially trained in the operation of the Domestic Violence Act. Measures to protect the victims included orders of protection against the perpetrators.

12. With regard to the concern expressed about the delegation's use of the term "equity", she pointed out that although it was not necessarily synonymous with "equality", experience had shown that *de facto* gender equality could not be achieved without taking into account differences between persons and groups. For Costa Rica, "inequity" was defined as any inequality which resulted in a difference in living conditions, particularly those of women, and was therefore unnecessary, unjust and avoidable. The temporary special measures mentioned in article 4 of the Convention would be an example of measures taken in the interests of equity in order to achieve the necessary conditions for equality. It must be borne in mind that the Convention was the product of a specific period in history; some of the principles it embodied had taken on a deeper meaning over time as a result of, *inter alia*, the women's movement.

13. A 5.9 per cent decline in Costa Rica's gross domestic product (GDP) had led the President and the Ministry of Finance, which was responsible for the State budget, to issue a directive requiring a 40 per cent across-the-board cut in the operations budget of all government institutions although funding for fixed expenses would not be affected. The National Institute of Women (INAMU) had successfully negotiated a far smaller (16 per cent) budget cut which affected only incidental expenses such as its travel budget. However, it should be noted that although INAMU officially received significant funding sourced from 2 per cent of the Family Benefits and Social Development Fund, to date it had received only about half of that amount and was therefore hindered in its efforts to achieve equality of opportunity for women.

14. Throughout its history, INAMU had worked for the incorporation of a gender-equity Unit in all State agencies. The previous Government (1998 to 2002) had signed an executive decree calling for the creation of such Units. However, some State agencies, including the Ministry of Finance, the Ministry of Economic Planning and Policy and the Office of the Comptroller General of the Republic, did not yet have a gender-equity Unit and some of the units which had been created did not have their own budgets or had not been assigned a high enough rank to guarantee their effectiveness. Efforts were also being made to ensure that through the creation of such Units, a gender perspective would always be incorporated into the National Development Plan of all government agencies and ministries. Implementation of the Plan was compulsory and subject to review every six months, thus providing an effective way of addressing the issues of inequality and discrimination in the public administration.

15. The 1995 Act Regulating Common-law Marriages defined common-law marriage as public, commonly known, monogamous and stable cohabitation of more than three years' duration between a man and a woman with the legal capacity to enter into marriage. Where a common-law marriage was terminated for any reason, the partners had the right to share all property acquired jointly during the period of cohabitation, regardless of whether such property was registered in the name of the man or the woman. If one partner died, the survivor retained inheritance rights over 50 per cent of the property acquired during the marriage. Each partner in such a marriage had the right to coverage under the other partner's health insurance; a woman could also apply for protection orders against the man with whom she was cohabiting. Draft legislation currently under consideration contained additional provisions to protect the rights of women in common-law marriages.

16. The original draft of the Act Promoting the Social Equality of Women had called for the establishment of minimum quotas for women's participation in the governing bodies of political parties and in electoral lists. However, that provision had been dropped before the Act was adopted. Governments were merely obliged to incorporate into their statutes effective mechanisms to ensure women's participation in elections and inclusion in electoral lists and to guarantee a significant percentage of women in the various State bodies. The use of vague terms such as

"effective mechanisms", "effective participation" and "significant percentage" meant that, in practice, there had been little improvement. A 40 per cent minimum quota for women's participation had been instituted as a form of affirmative action aimed at narrowing the gender gap in political party structures and elections. However, the Supreme Electoral Tribunal had had to issue a series of regulations before the measure could be implemented.

17. The National Childhood and Adolescence Council was responsible for the development and implementation of public policies and campaigns to promote parents' shared responsibility for raising and educating their children; in September 2001, the Inter-Institutional Commission for Responsible Paternity had been created to oversee public policy in that area. The Commission's technical secretariat operated under INAMU and to date had issued public policy guidelines and institutional commitments, including a strategic plan for the implementation of campaigns to promote joint parental responsibility. It was essential to change cultural patterns through human rights education, including the promotion of sexual and reproductive rights. Sex education for children and adolescents was needed but was meeting with opposition from Costa Rica's neoconservative groups.

18. Under the Cabinet Agreement on violence at Christmas and on festival dates, special around-the-clock teams in the Ministry of Public Safety and the Office of Women's Affairs stood ready to respond to calls for assistance from victims of domestic violence at such times. Although the judiciary was not covered by the Agreement, it established similar teams. After the holiday, the victims received follow-up care from their local services.

19. While marital rape was not specifically covered by the Criminal Code, it was included in the draft law on the criminalization of violence against adult women. At present, offenders could be prosecuted for rape but not for aggravated rape; only six husbands had been convicted of raping their wives.

20. In most cases, the age of the fathers of children born to girls under 15 was not recorded because the father's name was not declared. Most declared fathers were between 20 and 39 years of age.

21. The trafficking or prostitution of girls under 12 constituted the crime of rape. Between ages 12 and 15, the offence had formerly been labelled debauchery

(*estupro*), and had required that the victim be an “honest woman”. The new term was “sexual relations with a minor” and applied to both boys and girls, regardless of their moral character. Public officials were required to report all such cases.

22. The amended Criminal Code defined the offence of trafficking in persons as promoting, facilitating or encouraging a person of either sex to enter or leave the country for the purpose of engaging in prostitution or in order to maintain another person in sexual or other servitude. In the case of children, both pimps and customers were guilty of the crime of sexual relations with a minor. In 2001, there had been one conviction of the crime of procuring, which was a separate offence; 35 convictions of the crime of corruption, which was defined as the act of committing or causing another to commit a sexual or erotic act in the presence of a minor or causing a minor to engage in a sexual or erotic act in the presence of others; and one conviction for pornography using minors or images of minors. There was no information on the new legislation’s impact on the sexual exploitation of minors or on the number of street children. Trafficking in adult women for commercial sexual purposes was punishable by law.

23. Since December 2002, the post of Mayor had been an elective office; previously, it had been filled through appointment by the municipal councils. Article 60 of the Electoral Code set quotas for the percentage of women on electoral lists and a number of women had been elected. However, the higher the public office, the smaller the number of woman occupants. It was also more difficult for women to be elected to posts in which there was only one vacancy. The solution would be for political parties to be required to ensure women’s equal representation, for the Supreme Electoral Tribunal to have the power to monitor compliance and for sanctions to be imposed on parties which failed to meet the quota.

24. It was important to provide men with training in the gender perspective on issues such as political party leadership, the electoral process, appointments to decision-making posts and the benefits of gender equality for society as a whole. However, the available resources were sufficient only to meet the most urgent needs. The Supreme Electoral Tribunal was required to negotiate with political parties to ensure that training in political matters was implemented from a gender perspective, that women were often unable to run for office because they lacked the necessary funds and had

no collateral against which to borrow money. The Tribunal should therefore provide funding for women’s political campaigns and create a mechanism through which banks would grant women loans on concessional terms for that purpose; the issue was currently under discussion.

25. Immigration policy had no gender focus because it was only in the last 10 years that gender had come to be considered as an element of public policies. However, even the proposed new integral immigration policy lacked gender focus: awareness of the issue must be increased, and technical assistance from countries which had made greater progress would be welcome. Civil society organizations and associations of immigrant women had pointed out that the needs of immigrant women and the needs of immigrant men were not the same, and the Government had been pressed to make sure that the integral immigration policy covered labour, social security and human rights as well as immigration issues. The current draft of that proposal, which had been presented to the Legislative Assembly under the 1998-2002 administration, stated that the policy should apply equally to men and women, but contained no gender-specific provisions. The Minister for Women’s Affairs was a member of the Council for comprehensive welfare and citizens’ involvement. The Council had a high profile and was capable of exerting pressure for future immigration policy to be gender-sensitive.

26. Costa Rica had traditionally been a receiving country for refugees and those seeking political asylum and it adhered to the related international treaties and agreements. Refugees were classified as temporary residents. They were not barred from employment, but they faced practical obstacles because their refugee *carneys* were not seen as having the same status as residence permits. Title legalization also cost them double the amount paid by residents. An executive decree in force since 6 June 2003, on the other hand, prohibited refugees from being returned to their countries of origin, so many were becoming full residents.

27. The teacher-training curriculum at the University of Costa Rica made gender issues one of the three central themes of study. The same was true of primary and secondary school curriculums. INAMU attempts to introduce gender-sensitive training at the University had been frustrated by the resistance of teaching staff of both genders to changing traditional patriarchal

teaching methods. Most recently, however, the Ministry of Public Education had established a plan of action which included strategies to prevent hidden gender stereotyping in the school curriculum and ensure that education was gender-sensitive.

28. The National Police Academy's basic training course included 40 hours of instruction about domestic violence, with some discussion of gender issues. Staff of the Ministry of Public Security involved with assisting women and children were also receiving training on domestic violence, with coverage of the psychosocial and legal aspects of the issue, and training on commercial sexual exploitation of children and teenagers.

29. The Ministry of Public Education had developed a teaching plan on sexuality and teachers throughout the country were receiving the necessary training. Overall, education was being used as a conduit for increasing participation in decision-making by promoting gender equality and equity.

30. Training regarding the content, scope and implementation of the Convention had been integrated into INAMU efforts to improve the ability of civil servants to handle gender issues. Training was also being provided in how to make use of the Convention in law and in argument in defence of women's rights.

31. Women domestic workers' pay was lower than the minimum wage for unskilled labourers, the argument consistently used to justify that wage gap being that domestic work was supposedly not motivated by a desire for profit, and that if the minimum wage had been similar to that of other workers, poorer individuals would not have been able to afford domestic help. While the Political Constitution limited the working day to eight hours, an exemption allowed the working day for domestic workers to be 12 hours, with rights to days off below those of other workers. There was not enough political will to use legislation to close the gap between domestic and other workers.

32. Costa Rican women in general were prevented from exercising their rights by a lack of enforcement mechanisms. The problem was worse for immigrant women, particularly those from Nicaragua, because of lower levels of education, higher levels of cultural prejudice and frequent lack of immigration papers.

33. The minimum wage table established a minimum wage for agricultural workers, both male and female. Employers were obliged to provide social security coverage irrespective of the duration of a contract, but most women agricultural workers were self-employed in the informal sector and received neither a wage nor social security coverage.

34. Working women were able to use public, public/private and fully private childcare centres for children under 12. A new law inspired by the Convention on the Rights of the Child and the Code on Children and Adolescents had encouraged the establishment of more childcare facilities.

35. Women's representation in the labour market continued to be mainly in the informal sector so that they had low job security. The draft State of the Nation report estimated that women accounted for 40.8 per cent of the workforce. More women than men were self-employed, and their numbers were growing. Most worked in subsistence-level, low-productivity jobs.

36. International treaties and conventions duly approved by the Legislative Assembly had primacy over domestic law. Although Costa Rica had not ratified the International Labour Organization (ILO) maternity-protection conventions, the rights of expectant or nursing women workers had been improved following the ratification of the Convention on the Elimination of All Forms of Discrimination against Women. A bill for the approval of ILO Convention 183, concerning the revision of the Maternity Protection Convention, was on the legislative agenda, but Costa Rica had pointed out that its own legislation afforded more protection than the Convention and that it would not be scaled back.

37. Through the Act Promoting the Social Equality of Women, Costa Rica had acquired the right and duty to adopt affirmative action. The legislative authorities had upheld such measures. The most prominent and effective of those measures was the 40 per cent women's quota for candidates for elected office.

38. Although the free-trade agreement would expand job opportunities in the tourism and manufacturing industries where women had a substantial presence, it ran the risk of preserving or worsening the wage gap between men and women, of further segmenting the job market along gender lines and of eroding the labour rights of some women because of pressure to lift limits on working hours and reduce employers' social

provisions (such as childcare, scholarships and allowances) on the grounds that they constituted barriers to free trade. The Government had created a forum to debate the effect of the free-trade agreement on women, increased the ability of the Ministry of Labour and Social Security to monitor women's working conditions, developed a procedure for "gender-equity certification" of public and private enterprises, encouraged women entrepreneurs, asked the Ministry of Foreign Trade to study the effect of the free-trade agreement on women, directed State investment towards road-building, public transport, health, education and care for children and the elderly to benefit the areas with the fewest job opportunities for women and had set up a system to monitor gender gaps and exclusion in all industries connected with free-trade agreements.

39. Costa Rica had no national employment policy, but the workers' high council, which included representatives of the business and cooperative sectors, had established a committee to draft such a policy. The part of the policy devoted to job opportunities would cover young people, women, the elderly and people with disabilities, and take account of advice from INAMU. The main function of the Women's Unit of the Ministry of Labour and Social Security was to promote women's labour rights and to guide the Ministry's work on gender policy.

40. The Costa Rican Social Security Fund (CCSS) had conducted a gender study examining the health-care needs of middle-aged and older women since women lived longer than men, and a working group had been set up to debate a national plan regarding domestic violence against the elderly. However, there was no overall policy focusing on older women.

41. Illicit drug use was a serious public health problem in Costa Rica. Preliminary results of research had shown that drug abuse by women was related to stress and anxiety, thus providing very important information for the design of prevention programmes. The problem was thought to be aggravated by factors such as sexual harassment, abuse and domestic violence, overwork, unemployment and low self-esteem.

42. The ratio of males to females among HIV/AIDS patients had stood at twelve to one in 1998 and had fallen to seven to one by 2001. Twenty women had died of AIDS in 1997, 14 in 1998 and in 1999, 21 in

2000 and 19 in 2001. The overall figure for patients with HIV/AIDS had been 2,340 in 2002; gender-disaggregated data were not available. Patients living with HIV/AIDS were entitled to 100 per cent health-care coverage regardless of their nationality, and 77 per cent of the cost of that coverage was borne by the Costa Rican Social Security Fund (CCSS). The annual cost of antiretroviral therapy had fallen from US\$ 7,260 in 1998 to US\$ 2,375 in 2002, thanks to price cuts by pharmaceutical companies and the availability of generic drugs.

43. The Sexual and Reproductive Health Commission had chosen three cross-cutting themes for the Government's health policy for 2002-2006: gender, participation and a rights-based approach, and there was now also a specific policy on sexual and reproductive rights. Areas which had been identified as requiring greater attention included comprehensive sexual and reproductive health care for adolescents, a comprehensive prevention and health-care programme for HIV/AIDS, cervical and breast special health care, dissemination of information regarding legal standards and complaint mechanisms and promotion of involvement by men and of respect for and enjoyment of sexual and reproductive rights.

44. A study of cervical cancer, involving 10,000 women, was being conducted in the province of Guanacasta. The most significant result so far had been the confirmation of a causal relationship between human papilloma virus and cervical cancer. All the women in the sample who had shown lesions had been given follow-up examinations. Examinations of sex workers were conducted on demand for all men and women engaging in prostitution, but health-sector staff had not received sensitivity training to equip them to deal with the problems of those patients. A project had been created recently to provide assistance to support groups for women prostitutes. A major increase in syphilis cases had been observed among sex workers of both genders.

45. Sex workers were at great risk from HIV infection, and their low self-esteem and lack of control over their own lives made them less likely to use condoms regularly. Condoms were distributed at social-security centres and in prisons. There was no clear government policy on their marketing, but they were widely advertised and were readily available in pharmacies, supermarkets and other shops. As for access to contraception, a study conducted by the

Women's Health Section of the CCSS Department of Preventive Medicine had shown that, while access to contraceptives was freely available in theory for both sexes provided the patient was not a minor, there was a significant barrier owing to social attitudes and the lack of counselling and education, and access was especially difficult for undocumented migrants.

46. In theory, under CCSS guidelines, no man could be denied the right to a vasectomy. However, it was not known whether those guidelines were being complied with. As for abortion, the current rules permitted it only when the mother's health or life was in danger. Early discussion of the subject was encountering a tense atmosphere owing to the strong influence of the Roman Catholic church on the thinking of many of the medical professionals whose experience might otherwise lead them to favour allowing abortion in cases of rape or sexual abuse.

47. In response to a question on access to credit, she said that a Presidential directive issued in 2000 required favourable credit facilities to be provided for microenterprises, and had given rise to an ad hoc programme for women at the country's biggest state-run bank. As a result, access to credit by rural women entrepreneurs had increased from 0.25 per cent in 1995 to a sustained three-year average of 34 per cent. Responding to a question on access to land, she recalled that paragraph 583 of the fourth periodic report stated that of the total number of deeds executed from May 1998 to May 2001, 26 per cent had been registered in the name of men, 25.4 per cent in the name of women and 48.6 per cent in the name of couples. As for access to non-arable land, it was estimated that large numbers of properties were owned by women, thanks to social housing programmes. Financing and other services provided to rural women during the period covered by the report had remained at a low level, but there was an upward trend. The Institute for Agricultural Development (IDA) had a mixed rural credit programme. Its regulations were being reviewed, taking into account input from the National Institute of Women (INAMU) on the need for improved flexibility in credit for women.

48. Replying to a question of sanctions to be imposed in cases where women were denied the rights provided under the law, she recalled that paragraph 653 of the fourth report stated that there was indeed a gap between discourse and practice in terms of equity between men and women and that the Costa Rican

State still demonstrates a limited commitment to adopt measures to punish discrimination against women. Some of the legislation referred to in the reports provided for penal, civil or administrative sanctions for non-compliance, but stronger measures, including legislation in areas such as employment, electoral law and domestic violence, were urgently needed to ensure that in practice women could enjoy the rights embodied in the Constitution, national legislation and international instruments.

49. Minors aged 15 or over could marry with parental consent, after which the spouses were equal before the law. The absence of data on the number of such marriages was due to the way in which the statistics were collected and compiled and the type of indicators used. INAMU was seeking to remedy that situation. There was a tendency to penalize women more severely than men for infidelity, recognized as grounds for divorce, but the spouse accused of infidelity could no longer be deprived of his or her share of joint assets acquired during marriage. Common-law spouses, once they had lived together for three years, acquired rights and obligations similar to those of married couples, particularly in relation to any children they might have.

50. **The Chairperson** thanked the Costa Rican delegation for the information provided and congratulated the Government for the efforts that were being made, including the ratification of the Optional Protocol, and for the broad consultations which had taken place during the preparation of the fourth periodic report. She hoped that in future the Government would adhere strictly to the provisions of article 18 of the Convention. Further legislation was needed, but the greatest challenge lay not in its adoption but in its practical implementation. Those responsible for ensuring that women could enjoy their rights in practice must be provided with the necessary training and resources. Negative sociocultural patterns and stereotyped images of the role of women must be overcome, particularly through education. Awareness of and sensitivity to gender issues must be promoted, particularly in relation to sexual and reproductive health, political participation, employment and poverty reduction, and to the problems of domestic violence, trafficking and various forms of exploitation.

The meeting rose at 12.20 p.m.