

i Information

In the spring semester 2022, the exam will be a 72 hour home exam, maximum 3000 words on bachelor's level.

Footnotes should be included in the word count of the main text. Not included in this count: front page (title etc.), summary, table of contents and references (bibliography). (If relevant for the paper).

Assignments/papers with text exceeding the word limit will not be accepted.

1 JUR1910 Home Exam S22

HOME EXAM JUR 1910 BACHELOR 2022

Maryland is a rural country with a population made up of different ethnic and religious groups. The majority of the population are Catholics, but there are large groups of Muslims and Protestants. The largest ethnic group, the Patagonians, seeks to protect the patriarchal family and marriage system. The country was, in the last 15 years, ruled by a union of religious and tribal leaders seeking to promote religious and traditional gender values. Towards this end, the Constitution, the Marriage Act, the Education Act, the Health Act and the Criminal Procedural Acts were changed..

Over the last 15 years, there was little investment in the public health system, the school system and the police. The Catholic Church is in charge of a large number of schools, hospitals and health stations. To promote law and order at the local level, tribal leaders have power to investigate crimes like child abuse and domestic violence.

In 2022, a union of the liberal party and the social democrats won the election. The overall aim of the new government is to promote gender equality by improving women's and girl's sexual and reproductive health and take measures to end domestic gender violence.

Central provisions in existing legislation

Article 2 in the Constitution:

No discrimination shall take place on the basis of sex, tribe, religion or place of origin.

The State recognizes that by her life within the home, woman gives to the State a support without which the common good cannot be achieved.

In matters related to marriage and family life customary norms and practices shall prevail.

Section 5 in the Health Act:

Termination of pregnancy is allowed if the life of the mother is at risk.

Otherwise abortion is a criminal offense punishable by up to six years in prison for doctors and midwives who perform abortions, by 2–6 years in prison for women who undergo the procedure, regardless of the reason and 1-3 years for those who assist women in seeking abortion.

Section 6 in the Responsible Parenthood and Reproductive Health Act:

Each family shall have the right to determine its ideal family size. The State shall equip each spouse with the necessary information on all aspects of family life, including reproductive health and responsible parenthood, in order to make that determination.

Section 1 in the Tribal Leaders Act:

Family conflicts shall, in line with the Constitution, Article 2 Section 3, be resolved by the Tribal leaders in each District on the basis of customary norms and traditions.

Section 3 in the Criminal Procedure Act:

Family conflicts are, in line with the Constitution, Article 2 Section 3 and the Tribal Leaders Act exempted from the power of the police and courts.

The CEDAW Committee's Concluding Observations

Maryland ratified the Convention on the Elimination of all Forms of Discrimination against women without reservations in 2008. It submitted its third periodic report to the CEDAW Committee in

2019. The CEDAW Committee submitted its Concluding Observations in 2020.

The Committee was concerned that:

- 400,000 abortions were performed illegally resulting in 80,000 hospitalizations of women for abortion-related complications.
- 5000 girls dropped out of school because of pregnancy.
- 1/3 of all adult women had experienced domestic violence.

The Committee was generally concerned about women's and girl's lack of reproductive and sexual health rights and the lack of protection against violence in the home. A key concern in this regard was how religious and customary norms took precedence when coming into conflict with women's and girl's sexual and reproductive health rights and right to equality and protection against violence in family life.

In its concluding observations, the CEDAW Committee raised the following concerns regarding Maryland's laws and practices:

1. The Committee notes that the Constitution is not based on a gender equality approach. It is concerned that the prohibition against sex discrimination not takes precedence when coming into conflict with religion and custom in the field of family affairs. It also notes that the Constitution is silent about CEDAW's status in national law.
2. The Committee is concerned that the right to abortion is limited to situations where the mother's life is at risk and otherwise criminalized. A related concern is the lack of procedures for women who seek abortion because their life is at threat. It is also concerned that members of organizations who provide information about right to abortion in other countries have been charged with criminal offences.
3. The Committee is concerned about single women and girls' lack of access to family planning and the lack of health stations with professional health workers that can ensure access to information and family planning facilities.
4. The Committee is concerned about women's lack of access to law and justice in matters concerning domestic violence. It recommends the enactment of a domestic violence act enforced by women friendly police stations.

The exam questions

You are, as CEDAW expert, hired by the new Ministry of Family, Culture and Gender equality to write a consultancy report that addresses the CEDAW Committees concerns regarding law and practice in Maryland. The consultancy report shall address the following questions with reference to the relevant theories and legal sources including legal literature, general recommendations, concluding observations and case law from the CEDAW Committee (or other human rights treaty bodies). All the questions must be answered (the length of each part of the report is indicated below).

- 1) What is the CEDAW Committee's three pronged approach to equality and why is it relevant for the new Maryland Government's reform program? (approximately 3/10th of the report)
- 2) How does the CEDAW address conflicts between the principle of gender equality and legal, religious, customary and social norms? What must the state do to ensure that the CEDAW takes effect in national law? (approximately 1/10th of the report)
- 3) Analyze the relationship between women's protection against domestic violence under Maryland's Constitution, the Tribal Leadership Act, the Criminal Procedure Act and the CEDAW Committee's interpretation of the prohibition against discrimination in Article 1. What changes are required to ensure that Maryland's laws, practices and procedures concerning domestic violence are in consonance with the CEDAW's three pronged approach to transformative equality? (approximately 4/10th of the report)

4) How has the CEDAW through its jurisprudence dealt with abortion? What changes are required to ensure that Maryland's legislation and procedures regarding abortion are in consonance with the CEDAW's three pronged approach to transformative equality? (approximately 2/10th of the report)



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