

CEDAW-BASED LEGAL REVIEW: BRIEF GUIDE

Canada 

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WOMEN

UN Women is the UN organization dedicated to gender equality and the empowerment of women. A global champion for women and girls, UN Women was established to accelerate progress on meeting their needs worldwide.

UN Women supports UN Member States as they set global standards for achieving gender equality and works with governments and civil society to design laws, policies, programs, and services needed to implement these standards. It stands behind women's equal participation in all aspects of life, focusing on five priority areas: increasing women's leadership and participation; ending violence against women; engaging women in all aspects of peace and security processes; enhancing women's economic empowerment; and making gender equality central to national development planning and budgeting. UN Women also coordinates and promotes the UN system's work in advancing gender equality.

Objective

The CEDAW-based Legal Review: A Brief Guide was developed to guide practitioners in the government, parliament, civil society organizations and women's groups, academic institutions, and development agencies to assess compliance of the national laws with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and to provide appropriate recommendations for ensuring its compatibility through a CEDAW-based legal review. It does so by presenting a framework for assessing legal compliance (assessment framework). The assessment framework aims to support the practitioners with identifying the obligations under CEDAW, drafting legal indicators, identifying discriminatory legal provisions, proposing laws, revisions or amendments that promote gender equality, and provides other recommendations to ensure the compatibility of laws with the Convention. The Guide is primarily targeted for practitioners in Ukraine.

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The content of the brochure is partly drawn from UNIFEM Do Our Laws Promote Gender Equality? A Handbook for CEDAW-Based Legal Reviews (2010) and UNIFEM CEDAW Made Easy: Questions and Answers Booklet (2004). UNIFEM (United Nations Development Fund for Women) is a former UN entity which was incorporated into UN Women in July 2010.

Acronyms and Abbreviations

CEDAW	The Convention on the Elimination of All Forms of Discrimination Against Women
CEDAW CO	Concluding Observations of the Committee on the Elimination of All Forms of Discrimination Against Women
CEDAW Committee	The United Nations Committee on the Elimination of All Forms of Discrimination Against Women
CSO	Civil Society Organization
HIV/AIDS	Human Immunodeficiency Virus and Acquired Immunodeficiency Syndrome
LBTIQ	Lesbian, Bisexual, Transgender, Intersex, Queer
NAP	National Action Plan
NGO	Non-Governmental Organization
UN	United Nations
UNIFEM	The United Nations Development Fund for Women
UN Women	The United Nations Entity for Gender Equality and the Empowerment of Women
Verkhovna Rada	Parliament of Ukraine

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WHAT IS
CEDAW?

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)¹ is one of the core international human rights treaties within the framework of the United Nations (UN) system of treaties which imposes on State Parties the legal obligation to ensure the respect for, protection of, and realization of women human rights in various spheres. The CEDAW Convention was adopted on December 18, 1979, and as of 2018 has been ratified by 189² countries.

CEDAW provides a comprehensive framework for the promotion, protection, and fulfilment of women's human rights. In particular, it obligates States to eliminate discrimination against women in all fields, without delay, and by all appropriate means, including legislation.

WHEN RATIFYING THE CONVENTION, THE STATES COMMIT TO:

- Recognize discrimination and inequality;
- Recognize the need for state action;
- Act to achieve the objectives of the Convention;
- Bear, if necessary, responsibility at the national and international levels.

CEDAW consists of a Preamble and 30 Articles.

- Article 1 Definition of Discrimination against Women and Girls
- Article 2 Obligations to Eliminate Discrimination
- Article 3 Appropriate Measures
- Article 4 Temporary Special Measures
- Article 5 Gender Stereotypes
- Article 6 Trafficking and Exploitation of Prostitution
- Article 7 Political and Public Life
- Article 8 Participation at International Level
- Article 9 Nationality
- Article 10 Education
- Article 11 Employment
- Article 12 Health Care and Family Planning
- Article 13 Economic and Social Life
- Article 14 Rural Women and Girls
- Article 15 Equality before the Law
- Article 16 Marriage and Family Life
- Article 17 Committee on the Elimination of Discrimination against Women
- Article 18 National Reports
- Article 19 Rules of Procedure
- Article 20 Committee Meetings
- Article 21 Committee Reports
- Article 22 Role of Specialized Agencies
- Article 23 Effect on Other Treaties
- Article 24 Administration of the Convention
- Articles 25-30 Commitment of States Parties

CEDAW PRINCIPLES

Substantive Equality Principle

The CEDAW's standard of equality is substantive equality. It is interpreted by the CEDAW Committee to mean de facto equality (equality in fact or actual equality) or equality of results. The achievement of substantive equality, however, entails that women are given equal opportunities, equal access to opportunities and an enabling environment to achieve equal results. Substantive equality looks beyond legal guarantees of equal treatment and inquiries into the impact of interventions.

CEDAW is based on three interrelated core principles:

1. Substantive equality
2. Non-discrimination and
3. State obligation.

These principles embody the conceptual framework behind CEDAW. Without an understanding of these principles, CEDAW cannot be properly applied. All the three CEDAW principles emphasize that equality must be enjoyed, not just “on paper.” It is not enough to have these laws and policies in place if women do not

Challenges to Substantive Equality

Although the principle of equality is widely recognized in constitutions and laws, there are many examples of interpretations of equality that do not result in substantive equality.

(a) Formal equality. Equality is often understood as providing similar treatment to similar people. In formal equality approach, men and women are seen as similar, therefore they will be provided with the same treatment. As a result, differences based on biology, such as pregnancy or maternity, are ignored. Social and cultural differences – social perceptions of women as weak, economically

For example, a law may give equal opportunities for women and men to access credit if they can provide collateral (guarantee or security). But if in reality, women cannot control, manage or inherit property, then they are highly unlikely to be able to provide collateral and therefore cannot access credit. Without measures to secure the practical realization of equality, there can be no substantive equality.

The list of 450 occupations, which have been forbidden for women in Ukraine since 1993³, covered a wide range of occupations and sectors. The legal provisions limited women's economic opportunities and their access to decision-making in a number of sectors, in particular in the military, agriculture, and heavy industry. In December 2017, the Decree of the Ministry of Health of Ukraine⁴ partially invalidated this list. However, some professions still remain inaccessible for women since Ukraine has not finished the procedure of the denunciation of the "Underground Work (Women) Convention 45 (1935) of the International Labor Organization (Convention concerning the Employment of Women on Underground Work in Mines of all Kinds)"⁵.

dependent, and housebound – and its impact on women are also disregarded.

(b) Protectionist approach. A protectionist approach to equality assumes that women are weaker than men, therefore require protection. Women's choices are restricted, and their rights are ignored to keep them safe. Women are blamed for their supposed inability to protect themselves rather than the failure of public order and security measures or the lack of appropriate occupational health and safety measures. Instead of addressing the dangerous environment for women and men as well as facilitating the movement towards equality, the protectionist approach reinforces the inferiority of women, hence fails to deliver actual equality.

Non-discrimination Principle

Non-discrimination is a key principle of CEDAW. The Article 1 of CEDAW defines discrimination against women as "any 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." It emphasizes that an action or omission is discriminatory if it has the "effect or purpose" of discriminating against women.

CEDAW prohibits the following forms of discrimination:

(a) Direct discrimination. This refers to an action or omission that has the "purpose" of discriminating against women, e.g. unequal retirement age, unequal inheritance rights, terminating employment on the basis of marriage or pregnancy, and different ages of marriage for boys and girls.

(b) Indirect discrimination. This refers to an action or omission that has the "effect" of discriminating against women, even if there was no intention of doing so. Women can face many obstacles sanctioned by culture and religious practices, or by entrenched male interests in key institutions such as political parties, trade unions, religious institutions and the courts. Because of these, an act or omission may appear to be neutral towards or even beneficial for women, but its effect or impact can be discriminatory.

(c) Multiple discriminations.

Gender discrimination may exist with other grounds of discrimination, such as on account of race, economic or social status, religion, disability, or age. Interventions should take into account all forms of disadvantage to be able to address them appropriately. The CEDAW Committee emphasizes that “certain groups of women, in addition to suffering from discrimination directed against them as women, may also suffer from multiple discrimination based on additional grounds such as race, ethnic or religious identity, disability, age, class, caste, or other factors. Such multiple discrimination may affect these groups of women

primarily, or to a different degree, or in different ways than men.”⁶

Groups of women, experiencing discrimination in addition to gender discrimination, include, but not limited to, rural women, women with disabilities, lesbian, bisexual, transgender, intersex and queer (LBTIQ) women, women from ethnic minority backgrounds, including Roma women and girls, internally displaced and migrant women, and older women.

State Obligation Principle

The third principle of CEDAW emphasizes that the duty-bearer

according to the Convention is the State. This means that although the responsibility to ensure equality and eliminate discrimination must be observed by state and non-state actors, only the State is directly accountable to CEDAW.

The State refers to all organs of the government and encompasses executive, legislative, judicial, and administrative structures as well as local government units. A State undertakes to comply with the specific means of implementation in CEDAW (obligation of means) and to ensure that the measures chosen, result in the elimination of discrimination (obligation of results).

The Optional Protocol

The Optional Protocol⁷ to CEDAW is a separate treaty open to States parties to the Convention. It is defined as “optional,” since States do not have obligation to become parties to it, even if they have ratified the relevant Convention.

The Optional Protocol to CEDAW introduces two new procedures for the implementation of the Convention:

1. Submission of complaints of individuals or groups of individuals to the Committee regarding violations of the rights set forth in the Convention;
2. The inquiry procedure under which the Committee may initiate an investigation into situations of serious or systematic violation of the rights set forth in the Convention.

General Recommendations

The Committee on the Elimination of Discrimination against Women (the CEDAW Committee) formulates general recommendations and suggestions. The General Recommendations⁸ are directed to States and concern articles or topics in the Conventions.

As of February 2018, the CEDAW Committee adopted 37 General Recommendations:

- General recommendation No. 1** – Reporting Guidelines (1986)
- General recommendation No. 2** – Reporting Guidelines (1987)
- General recommendation No. 3** – Education and Public Information Programs (1987)
- General recommendation No. 4** – Reservations (1987)
- General recommendation No. 5** – Temporary Special Measures (1988)
- General recommendation No. 6** – Effective National Machinery and Publicity (1988)
- General recommendation No. 7** – Resources (1988)
- General recommendation No. 8** – Implementation of Article 8 of the Convention (1988)
- General recommendation No. 9** – Statistical Data (1989)
- General recommendation No. 10** – Tenth Anniversary of The Adoption of CEDAW (1989)
- General recommendation No. 11** – Technical Advisory Services for Reporting (1989)
- General recommendation No. 12** – Violence Against Women (1989)
- General recommendation No. 13** – Equal Remuneration for Work of Equal Value (1989)
- General recommendation No. 14** – Female Circumcision (1990)
- General recommendation No. 15** – Women and AIDS (1990)
- General recommendation No. 16** – Unpaid Women Workers in Rural and Urban Family Enterprises (1991)
- General recommendation No. 17** – Measurement and Quantification of the Unremunerated Domestic Activities of Women and Their Recognition in the GNP (1991)
- General recommendation No. 18** – Disabled Women (1991)
- General recommendation No. 19** – Violence Against Women (1992)
- General recommendation No. 20** – Reservations (1992)
- General recommendation No. 21** – Equality in Marriage and Family Relations (1994)
- General recommendation No. 22** – Article 20 of the Convention (1995)
- General recommendation No. 23** – Women in Political and Public Life (1997)
- General recommendation No. 24** – Article 12 - Women and Health (1999)
- General recommendation No. 25** – Article 4 Paragraph 1 - Temporary Special Measures (2004)
- General recommendation No. 26** – Women Migrant Workers (2008)
- General recommendation No. 27** – Older Women and Protection of Their Human Rights (2010)
- General recommendation No. 28** – The Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination Against Women (2010)
- General recommendation No. 29** – Economic Consequences of Marriage, Family Relations, and Their Dissolution (2013)
- General recommendation No. 30** – On Women in Conflict Prevention, Conflict and Post-Conflict Situations (2013)
- Joint General Recommendation No. 31** – the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on Harmful Practices (2014)
- General recommendation No. 32** – On Gender Aspects of Refugee Status, Asylum, Nationality, and Stateless Women (2014)
- General recommendation No. 33** – Women's Access to Justice (2015)
- General recommendation No. 34** – On the Rights of Rural Women (2016)
- General recommendation No. 35** – Gender-Based Violence and Update Recommendation No. 19 (2017)
- General recommendation No. 36** – The Right of Women and Girls to Education (2017)
- General recommendation No. 37** on Gender-related dimensions of disaster risk reduction in the context of climate change (2018)

CEDAW IMPLEMENTATION AND MONITORING

The Committee on the Elimination of Discrimination against Women (CEDAW Committee) is the body of independent experts that monitors implementation of CEDAW. Ukraine as a country that has become party to the treaty (States party) is obliged to submit regular reports to the Committee on how the Convention are implemented. During its sessions, the Committee considers the Ukraine's periodic reports presented by the government delegation and addresses its concerns and recommendations to the State party in the form of Concluding Observations.

In accordance with the Optional Protocol to the Convention, the Committee is mandated to:

- (1) receive communications from individuals or groups of individuals submitting claims of violations of rights protected under the Convention to the Committee and;
- (2) initiate inquiries into situations of grave or systematic violations of women's rights.

These procedures are optional and are only available where the State concerned has accepted them. Every four years, States Parties

are required to submit a **periodic report** on the legislative, judicial, administrative, or other measures taken to implement the provisions of the Convention and the progress made in this direction for consideration by the CEDAW Committee. Reports may indicate factors and complications affecting the fulfilment of obligations under the Convention.

The process of preparing the report gives the State Party the opportunities to:

1. Critically assess the current status of women's rights and identify the areas in need of reform in order to ensure full implementation of the provisions of the Convention.
2. Conduct a comprehensive review of national legislation, administrative rules and procedures and practices.
3. Provide a basis for public policy study and encourage the participation of various actors, including civil society, in formulating and reviewing this policy;
4. Provide background data based on which the State and the Committee can assess the level of progress made in meeting

commitments under the Convention;

5. Gain a better understanding of the factors and difficulties that hinder the implementation of the provisions of the Convention;
6. Exchange information seek a better understanding of common problems faced by States, and better assess the measures that may be taken to facilitate the effective implementation of the obligations under the Convention.

The CEDAW national implementation is a consistent and continuous process on addressing deeply-rooted structural, institutional, social, and cultural barriers for women's equal rights and opportunities. Every state periodic report should reflect:

- a) the progress achieved on implementation of the CEDAW provisions and principles;
- b) the measures that must be taken at the normative and policy level to ensure substantive equality and elimination of all forms of discrimination against women.

Based on the consideration of the report, the Committee provides the **Concluding Observations** to the

state which serve as an authoritative benchmark for progressive development and implementation of gender equality legislation, policies, and programs.

The Concluding Observations serve as the substantive guideline to inform legal making, formulate the next national gender policy cycle, and to institutionalize the gender-responsive policy measures.

Setting up an effective inclusive monitoring mechanism, collecting reliable, available, and accessible data disaggregated by sex, age, and other characteristics, and providing enough budget allocation for implementation of commitments, as well as engagement with the civil society and women's groups are the essential conditions for a meaningful the CEDAW implementation.

CEDAW IN UKRAINE

Ukraine was one of the first countries in the world to ratify CEDAW on December 19th, 1980 and the Optional Protocol in 2003. To meet CEDAW-related obligations, Ukraine has adopted a number of laws⁹ aiming to advance the equal status of women and to eliminate discrimination against women in all spheres of life. Ukraine also developed a national policy framework on equal rights and opportunities for women and men.

Since ratifying the Convention, Ukraine has submitted eight periodic reports to the Committee. In February 2017, the CEDAW Committee reviewed the latest, Eighth Periodic Report of Ukraine. Since March 2017, Ukraine has been implementing the Concluding observations provided by the Committee.

In September 2018, the first National Action Plan (NAP) on implementation of the CEDAW Concluding Observations to the Eighth Periodic report has been endorsed¹⁰. The document determines the specific measures by the state institutions aimed to eliminate all forms of discrimination against women by 2021. One of the priority areas of the NAP is improvement of the legal and regulatory framework as regards combating and preventing discrimination against women and girls.



IMPLEMENTATION OF CEDAW SHOULD BE FRAMED WITHIN THE CONTEXT OF INTERSECTIONAL WORK, AS WELL AS WORKING FOR AND WITH DIVERSE GROUPS OF WOMEN FACING MULTIPLE FORMS OF DISCRIMINATION



STEP-BY-STEP
GUIDANCE ON
THE CEDAW-BASED
LEGAL REVIEW

In its recent Concluding Observations, the CEDAW Committee urged States Parties to achieve compatibility and compliance of their laws with the Convention. It also strongly encouraged States to ensure that CEDAW was applicable in the domestic legal system and its provisions were fully incorporated in national laws.

The following step-by-step guidance developed to support practitioners in state and municipal institutions, CSOs, and women's groups to assess compliance of their national laws with CEDAW and provide appropriate recommendations for its compatibility through the

CEDAW-based legal review. A framework for assessing legal compliance (assessment framework) helps define obligations under CEDAW, identify and analyze discriminatory legal provisions against CEDAW legal indicators, propose laws, revisions, or amendments that promote gender equality, and provide other recommendations to ensure the compatibility of laws with the Convention.

WHAT ARE CEDAW INDICATORS?

CEDAW Indicators measure compliance of State action or inaction with CEDAW. These indicators use CEDAW as a framework to analyze whether State interventions adhere to CEDAW, its key principles (substantive equality, non-discrimination, and State obligation), its General Recommendations, and Concluding Observations.

WHAT ARE CEDAW LEGAL INDICATORS?

CEDAW legal indicators measure compliance of laws with CEDAW. Indicators are useful in legal reviews because they identify the standard upon which compliance or progress is measured.

Stage I. Developing CEDAW legal indicators

STEP 1:
IDENTIFY CEDAW
OBLIGATIONS

STEP 2:
IDENTIFY SITUATION,
ISSUES, AND CONCERNS

STEP 3:
ASCERTAIN
POINTS NEEDED IN LAW

STEP 4:
DETERMINE THE CEDAW
LEGAL INDICATORS

STEP 1

Identify the obligations or undertakings required by CEDAW on the topic/s or article/s chosen by going through the three main documents:

- CEDAW
- General Recommendations
- Concluding Observations of the country¹¹

Review these main documents to design a framework of normative commitments for developing CEDAW legal indicators. Depending on the purpose of the review, the information collated can be structured in the three following ways:

Option 1: Full Text

This means citing the texts of CEDAW, the General Recommendations, and Concluding Observations in full.

Option 2: Abbreviated Citation

This means citing the texts of CEDAW, the General Recommendations, and Concluding Observations in an abbreviated format. Instead of using the full text, only the citation of the specific article or paragraph is included, (e.g. Article 5 of CEDAW or paragraph 5 of General Recommendation 24). Relevant documents can be added as an appendix or annex.

Option 3: Thematic Summary

This means summarizing the main points of CEDAW, the General Recommendations, and Concluding Observations into topics and citing the corresponding document.

STEP 2

Identify Situation, Issues, and Concerns for the legal review by researching the de facto situation of women and gender equality

- Research the de facto situation of women and gender equality by analyzing national statistical data, State Periodic Reports to the CEDAW Committee, shadow/alternative reports of NGOs to the CEDAW Committee, findings of country gender assessments and analyses.
- Brainstorm issues and concerns of women and gender equality in the country.
- Phrase the issues you have identified clearly and consistently.
- Choose and prioritize issues and concerns for the legal review.

STEP 3

Determine what essential points must be reflected in a law for it to comply with the CEDAW obligations based on the situation, issues, and concerns listed in Step 2

Once the de facto situation, issues, and concerns of women and gender equality in the country are identified, the list of legal requirements to comply with the CEDAW obligations should be drafted. This step should be specifically focused on essential points that must be reflected in a law, and not about a policy, program, and other interventions. The degree of specificity of items in Step 3 may vary based on the scope and priorities of the CEDAW-based legal review ensuring that each issue and concern have corresponding entries in Step 3. In some cases, there may be more than one corresponding entry in Step 3 for an issue or concern in Step 2.

STEP 4

Determine the CEDAW Legal Indicators by refining the identified points in Step 3 into CEDAW legal indicators (use Annex 1)

Form the points of the Yes / No questions. (a “yes” answer means compliance while a “no” means non-compliance), making sure that the questions are phrased to inquire on the existence of or a requirement in a law or legal provision, rather than on a policy, plan, or program. For example, the question “Are there shelters for victims of domestic violence?” is an inquiry that targets programmatic interventions rather than law. It is better rephrased as “Is there a legal provision requiring the establishment of shelters by an appropriate government agency?” or “Does the law requires the establishment of shelters for victims of domestic violence?”

SPECIFIC

Specific indicators lead to direct answers. On the other hand, broad, vague, or general indicators may lead to misinterpretation or questionable analyses and recommendations. If possible, ensure that there is only one way to answer an indicator. If an indicator requires multiple ways of answering, it becomes difficult to assess compliance.

MEASURABLE

Construct indicators so that it is easy to measure compliance or progress. CEDAW legal indicator should be a Yes / No question instead of a question that leads to debate. Specific indicators are easier to measure than broad or general indicators.

ATTAINABLE

As CEDAW legal indicators strive for legal reform, the indicators must measure matters attainable by law.

RELEVANT

Indicators must be relevant to the State. One of the things that result from copying indicators developed for other countries is that some indicators may not be relevant for the State which laws are being reviewed.

KEEP
INDICATORS

Stage 2. Determining Compliance and Recommendations



STEP 5

Identify the laws that are relevant to each indicator

Determine compliance of the relevant laws with selected CEDAW legal indicators. What kind of laws will be identified depends on the decision made earlier as to the scope of the legal review. (See Step 3). It is important to look into both women or gender-specific laws and laws of general application. In some cases, laws of general application may already afford adequate legal protection. On the other hand, they may disregard women's actual situations. In cases where no relevant law applies, it should be reflected in Step 5.

STEP 6

Analyze the relevant laws against CEDAW Legal Indicators with the level of compliance ranging from:

- Full compliance
- Partial compliance; to
- No compliance.

The following are some guidelines on deciding whether there is full, partial, or no compliance:

- No compliance means no legal provisions responding to the indicator. It can also mean the existence of a law contrary to the indicator or an inappropriate law.
- Partial compliance means that a legal provision exists, but it is inadequate. Indications of inadequacy may mean that there is a good law that is ineffectively implemented or that the de facto situation requires further legal guarantees.
- Full compliance means the existence of a legal provision responding to the indicator and no further legal provisions are needed for compliance.

STEP 7

Provide an explanation as to why the relevant laws comply or don't comply with the indicator.

- If your reply is “no compliance,” state the absence of a legal provision responding to the indicator, existence of a law contrary to the indicator, or an inappropriate law as a reason for your reply. It must provide further explanations on why the law in question is contrary or inappropriate.
- If your reply is “partial compliance,” provide comments on why the law is inadequate, which may include comments on weak implementation.
- If your reply is “full compliance,” state the existence of a legal provision responding to the indicator and that no further legal provisions are needed for compliance.

Other information, which may be useful to include in Step 7, is:

- Analysis undertaken in deciding compliance with the indicator;
- Concrete data or information to support the assessment;
- Gaps, limitations, and challenges relating to implementation and enforcement;
- Effects or impact of the law on the de facto situation of women.

STEP 8

Offer recommendations on what a law should be if there is non-compliance or partial compliance (legal recommendations).

These recommendations should focus on legal reform, in particular:

- Amending an existing provision;
- Adding or deleting a provision of law;
- Repealing a law; or
- Drafting a new law.

It is useful to include recommendations that are supplementary to the proper implementation of the gender equality provisions. If there is already compliance, these measures further guarantee implementation and enforcement. If there is partial or non-compliance, these measures in addition to assisting in implementation and enforcement will also support the legal recommendations made. These recommendations must be grouped separately from legal recommendations.

CEDAW-based legal reviews are important tools to transform the legal system into one that recognizes and guarantees equality and non-discrimination. In many cases, this does not happen automatically. Legal advocacy needs to occur to ensure that the findings of the legal review lead to actual law reform.

COUNTRY CASES



DENMARK

DENMARK EXAMPLE ON AMENDING LEGISLATION FOR IMPLEMENTATION OF THE CEDAW CONCLUDING OBSERVATIONS

Denmark ratified CEDAW in 1983. According to Act of May 30th, 2000 on Gender Equality, “public authorities shall within their respective areas of responsibility seek to promote gender equality and incorporate gender equality in all planning and administration.” All new legislation must be screened for gender equality implications to avoid direct or indirect discrimination on grounds of sex and to ensure full formal equality in the future¹².

To address the CEDAW Concluding Observations to the 5th¹³ and 6th¹⁴ State Periodic Reports on the wage differences between men and women, Denmark adopted the Equal Pay Act (#906 of 2006). The law was amended in 2008¹⁵ and provides protection against discrimination. The courts of law and the Board of Equal Treatment and industrial arbitration deal with such cases. Since the 7th State Periodic Report¹⁶, the courts of law have dealt with three cases and the Board of Equal Treatment has dealt with six. As of 1 January 2007, all major enterprises are required to draw up gender-segregated pay statistics. Cooperation on equal pay becomes a top priority for enterprises. As a result of legislation measures, the gender pay gap dropped from 19% in 2001 to 15% in 2016¹⁷. The legislation is to be revised in order to include more companies and to provide the employees with more knowledge about the pay situation of women and men in their company.



VIETNAM

VIETNAM EXAMPLE ON AMENDING LEGISLATION FOR IMPLEMENTATION OF THE CEDAW (CONCLUDING OBSERVATIONS)

Vietnam ratified CEDAW in 1981¹⁸. To ensure compliance of national legislation with the Convention, the country adopted the Law on Gender Equality (2006) and the Decree on gender equality measures¹⁹. The Decree defines the following steps on mainstreaming gender equality in drafting legal documents:

1. Identify issues relating to gender equality issues or issues of gender inequality, gender discrimination;
2. Prescribed measures required to implement gender equality and to solve the problem of gender inequality, gender discrimination; predict the impacts of those provisions for men and women after they are issued;
3. Identify human and financial resources necessary for the implementation of measures to ensure gender equality and to solve the problem of gender inequality, gender discrimination.

Agencies in charge of drafting legal documents are responsible for mainstreaming gender issues into the process of making legal documents, appraising agencies, legal documents. Since adoption of the mandatory legal expertise measures, Vietnam has made efforts to mainstream gender equality in the legal documents: the Civil Code, the Labor Code, the Penal Code, the Law on Marriage and Family, the Law on State Cadres and Civil Servants, the Land Law, the Law on Social Insurance, the Law on the Elderly, the Law on People with Disability, the Law on public Servants, the Law on Criminal Punishment Enforcement; the Law on Legal Assistance²⁰.

UKRAINE



UKRAINE EXAMPLE ON AMENDING LEGISLATION FOR IMPLEMENTATION OF THE CEDAW (CONCLUDING OBSERVATIONS)

Ukraine received a number of recommendations by the CEDAW Committee on revision of the national legislation towards implementation of the non-discrimination, substantive equality, and state obligation principles which were included in the Concluding Observations to State Periodic Reports.

To implement the recommendations, the government and the Verkhovna Rada (Parliament) undertook a gender analysis of national legislation related to: a) prevention and combating domestic and sexual violence²¹ and b) elimination of discrimination against women in military service and the armed force and provided them with equal employment rights and opportunities²².

As a result, the Verkhovna Rada adopted a number of revisions to the legislation including:

1. incorporated provisions on sexual violence, including a broader definition of rape in line with the international standards, in the Criminal Code of Ukraine²³;
2. introduced a definition of discrimination and increased the level of responsibility for sexual harassment in the Law on Equal Rights and Opportunities for Women and Men²⁴;
3. introduced amendments to the Law of Ukraine on Ensuring Equal Rights and Opportunities for Women and Men when Performing Military Service in the Armed Forces of Ukraine and Other Military Formations to ensure equal rights and opportunities for women and men²⁵ and expanded a number of military professions accessible for women.

In addition, a new Law on Prevention and Combating Domestic Violence²⁶, with comprehensive provisions on prevention, protection, and prosecution of domestic violence was adopted.

LEGAL ADVOCACY

CEDAW-based legal reviews are important tools to transform the legal system into the system that recognizes and guarantees equality and non-discrimination. In many cases, this transform does not happen automatically. Legal advocacy needs to occur to ensure that the findings of the legal review lead to actual law reform.

This entails a combination of complementary strategies including²⁷:

Alliance and Network Building

Identify individuals and groups to help in legal advocacy. This is important because legal advocacy work is a difficult undertaking. The strategy requires a lot of time, effort, commitment, and skills.

Mapping Legal Advocacy

Define entry points for intervention in each step of the law-making process. Identify target individuals or groups to be influenced and their likely allies or opposition. Determine the skills and tasks required for the whole undertaking as well as the roles to be performed by each individual or group.

Defining the Legal Proposal

Based on the findings of the CEDAW-based legal review, draft the essential elements of the legal proposal. Increase all allies awareness of these elements. Know which elements are nonnegotiable. Anticipate arguments

against these elements and prepare to counter them.

Information and Research

Lawmakers look for data, analysis, and other information to convince themselves and others of the merits of the legal proposal. Put together this information and disseminate to allies, lawmakers, and other stakeholders. If done well, the CEDAW-based legal review, which is an extensive research itself, should have all the required information. If not, make sure that additional research to supplement the legal review is conducted.

Lobbying

In legal advocacy, lobbying is the process of influencing lawmakers to promote or block the adoption of a legal proposal. Familiarize yourself with the lobbying practices in the country or community. This also means identifying which groups within your alliance or network have experience and skills in lobbying and making full use of their expertise.

After almost 40 years since the adoption of CEDAW by the United Nations General Assembly, the Convention acts as a powerful stimulus for State Parties' efforts to identify remaining areas of discrimination and newly emerging challenges as well as social inequalities between women and men, strive for improvements, and seek solutions together with the people in the government responsible for these issues.

CEDAW not only aims at advancing women's rights, but also at heightening the understanding of normative and political measures in order to achieve this goal. The implementation of CEDAW makes a significant contribution to ensuring substantive equality and accelerating inclusive and sustainable development of communities, countries, and the entire world.

ANNEX 1:
LIST OF CEDAW
LEGAL
INDICATORS

Articles 1-5: General Undertakings to Eliminate Discrimination and Ensure Equality

CEDAW Obligations

- Articles 1-5
- General Recommendation # 35 on gender-based violence against women, updating General Recommendation No. 19
- General Recommendation 25 (Temporary special measures)
- General recommendation 28 (The Core Obligations of States Parties under Article 2 of CEDAW)
- Concluding Observations on the country, if applicable

CEDAW Legal Indicators

Guarantee of Equality and Non-Discrimination

- Does the Constitution guarantee equality and non-discrimination on the basis of sex or gender?
- Does the Constitution guarantee equality and non-discrimination on the basis of race, age, disability, ethnicity, economic and social status, sexual orientation and other similar grounds?
- Is there a definition of equality between men and women or gender equality and does it conform to substantive equality?
- Is there a definition of discrimination/non-discrimination on the basis of sex/gender and does it conform to Article 1 of CEDAW?

Prohibition of Discrimination

- Is there a law that clearly prohibits gender discrimination by public authorities?
- Is there a law that prohibits gender discrimination by private persons, enterprises, and organizations?
- Are there sanctions in place for actions or omissions that result in discrimination?
- Are sanctions heavier if the discriminatory act is committed by a public official?
- Does the law prohibit discrimination by foreigners and foreign-owned and/or controlled entities?

Legal Protection of Women

- Is there a right to seek redress in cases of discrimination?
- Is there a guarantee of legal aid for cases of discrimination?
- Is there a guarantee of legal aid for women?
- Is protection against gender discrimination extended to foreigners?

Institutions and Mechanisms for Implementation and Monitoring

- Does the law designate a specific agency to be responsible for gender equality?
- Is the agency designated for gender equality provided with appropriate mandates, powers, and resources?
- Does the law require State agencies to incorporate gender equality in their operations?
- Does the law require systematic collection of sex-disaggregated data, and gender analysis?
- Does the law require that strategies and plans be put in place to ensure promotion and protection of gender equality?
- Is there an independent commission (e.g. women's commission, human rights commission) that monitors State compliance with gender equality and/or CEDAW?
- Incorporation and Application of Treaties
- Is CEDAW considered law in the national legal framework?
- Can CEDAW's provisions be invoked directly in judicial or quasi-judicial proceedings as a source of an actionable right?
- In case of conflict between CEDAW and domestic law, does CEDAW prevail, unless the domestic law is more conducive to the achievement of equality?

Temporary Special Measures

- Does the law require the setting of temporary special measures to accelerate de facto equality?
- Is there a procedure for the implementation of special temporary measures?

Gender-Based Violence

CEDAW Obligations

- Articles 1-2, 5, 11, 12 and 16
- General Recommendation # 35 on gender-based violence against women, updating general recommendation No. 19
- General recommendation No. 30 on women in conflict prevention, conflict, and post-conflict situations
- Concluding Observations on the country, if applicable

CEDAW Legal Indicators

Domestic Violence

- Is domestic violence defined by the law to include all forms of violence (physical, mental, economic, and sexual harm and abuse)?
- Does the definition of domestic violence include marital rape?
- Does the definition of domestic violence include all forms of coercion and deprivations of liberty?
- Is protection from domestic violence extended to spouses, former spouses, persons with a common child, persons living together, and other persons in intimate relationships?
- Does the law provide for an immediate protection measure for victims of domestic violence?
- Does this measure prohibit the offender from committing further acts of violence?
- Does this measure prohibit the offender from contacting or harassing the victim or her family members?
- Does this measure allow temporary removal the offender from the dwelling of the victim, regardless of ownership of the dwelling?
- Does this measure allow for a decision on temporary custody of a child?
- Does this measure allow for payment of support to the victim?
- Does this measure allow for payment of medical expenses incurred due to the violence?
- Is domestic violence prohibited?
- Are immediate protection measures ensure sufficient time to enable the victim to ensure her safety and protection?
- Does the law allow for the issuance of immediate protection measures independent of the filing of a case (or whether or not the victim pursues litigation)?
- Are immediate protection measures issued by easily accessible authorities?
- Are immediate protection measures issued ex parte?
- Are immediate protection measures issued on the same day as the date of application?
- Does the law provide for rehabilitation services for domestic violence offenders?
- Does the law require provision of counselling services to victims of domestic violence and their families?

- Does the law require provision of free or affordable legal assistance to victims of domestic violence?
- Does the law require free or affordable medical services to victims of domestic violence?
- Does the law identify the appropriate agencies to provide support services to victims of domestic violence?
- Does the law require the establishment of refuges or shelters for victims of violence?
- Is domestic violence punishable by a penalty commensurate with the gravity of the offense?
- Does the law require mandatory reporting of domestic violence to local authorities by health service providers, social workers, village officials, and other appropriate public officials?
- Does desistance of the victim operate to discontinue the prosecution of a criminal case of domestic violence?
- Are domestic violence victims entitled to compensation?
- Are domestic violence cases not subjected to mediation?
- Does the law provide clear designation of responsibilities among State agencies in addressing domestic violence?
- Does the law mandate inter-agency cooperation in addressing domestic violence?
- Does the law require the training of judicial and law enforcement officials, social workers, and health providers on domestic violence?
- Does the law mandate dissemination of information on domestic violence by a particular agency?
- Does the law require the gathering of data and research on domestic violence?

Rape and other Forms of Sexual Assault

- Are rape and other forms of sexual assault prohibited?
- Does the definition of rape or sexual assault include insertion of a penis into the oral or anal openings of a person?
- Does the definition of rape or sexual assault include insertion of objects into other person's genitalia?
- Does the law allow prosecution for rape even if there is no consent of the victim?
- Is prosecution for rape discontinued if there is resistance from the victim?
- Is marital rape a criminal offense?
- Does the law allow the discontinuance of criminal proceedings for marital rape if there is desistance or forgiveness by the spouse?

- Is there a prohibition of the use of prior sexual conduct to establish consent to sexual intercourse?
- Is there no legal requirement for a high degree of physical resistance by the victim to establish rape?
- Is there no legal requirement of corroboration of a victim's testimony to successfully prosecute rape?
- Does the law require the provision of services for the physical, psychological, and social recovery of the victim?
- Does the law provide free or affordable legal aid to victims of rape?
- Are rape victims entitled to compensation?
- Does the law protect the identity and privacy of the victims of rape and sexual assault?
- Does the law require courts to set up arrangements for non-face-to face proceedings, such as video conferencing, in cases where the victim's safety or health is at risk?
- Does the law provide for procedures for the protection of victims of rape and witnesses from potential retaliation or intimidation, e.g. victim or witness protection programs?
- Does the law require the training of judicial and law enforcement officials, social workers, and health providers on rape and sexual assault, including on gender-sensitive ways of handling such cases?

Conflict-related sexual and gender-based violence

- Does the law establish specialized protocols and units to investigate conflict-related sexual and gender-based violence?
- Does the law define rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity in conflict situation as crimes against humanity and war crimes?
- Does the law require allocation of adequate resources and adoption of effective measures to ensure that victims of gender-based violence, in particular conflict-related sexual violence, have access to comprehensive medical treatment, mental health care, and psychosocial support?
- Does the law require development and endorsement of standard operating procedures and referral pathways to link security actors with service providers on gender-based violence, including one-stop shops offering medical, legal, and psychosocial services for sexual violence survivors, multipurpose community centers that link immediate assistance to economic and social empowerment and reintegration, and mobile clinics?

Trafficking and Exploitation of Prostitution of Others

CEDAW Obligations

- Article 6
- General Recommendation 19, pars. 13-16 and 24
- Concluding Observations on the country, if applicable

CEDAW Legal Indicators

Trafficking

- Is trafficking of persons prohibited?
- Does the law define trafficking to include all acts that may constitute trafficking, including recruitment, transportation, transfer, harboring, or receipt of persons?
- Does the law identify all means for the commission of the crime of trafficking, including threat, use of force, other forms of coercion, abduction, fraud, deception, abuse of power, abuse of position of vulnerability, giving or receiving payment or benefit to achieve consent of a person having control over another person?
- Does the law define the purpose of trafficking to include various forms of exploitation, including exploitation of prostitution and other forms of sexual exploitation, forced labor, slavery and slavery-like practices, and removal of organs?
- Does the law establish jurisdiction over trafficking offenses committed within the territory of the State and those outside its territory, when committed by or against its nationals?
- Are trafficked persons exempt from prosecution?
- Is a complaint on trafficking dismissed automatically if the trafficked person desists from continuing with the case?
- Are trafficked persons entitled to claim for compensation for the damages suffered?
- Does the law protect the identity and privacy of the trafficked persons?
- Does the law require courts to set up arrangements for non-face to face proceedings, such as video conferencing, in cases where the trafficked person's safety or health is at risk?
- Does the law provide for procedures for the protection of trafficked persons and witnesses from potential retaliation or intimidation, e.g. victim or witness protection programs?
- Is trafficking an extraditable offense?
- Is trafficking punishable by a penalty commensurate with the gravity of the offense?
- Does the law require rehabilitation/recovery and reintegration services for trafficked persons?
- Does the law require provision of counselling services to trafficked persons?
- Does the law require provision of free or affordable legal assistance to trafficked persons?

- Does the law require free or affordable medical services to trafficked persons?
- Does the law identify the appropriate agencies to provide support services to trafficked persons?
- Does the law require the establishment of refuges or shelters for trafficked persons?
- Does the law provide clear designation of responsibilities among State agencies in addressing trafficking?
- Does the law require training of judicial and law enforcement officials, immigration officials, social workers, and health providers on trafficking, including appropriate handling of such cases?
- Does the law mandate dissemination of information on trafficking by a particular agency?

Exploitation of Prostitution

- Are women in prostitution exempt from prosecution or any form of involuntary detention?
- Is the act of procuring persons for prostitution, penalized?
- Is the act of knowingly benefiting from the prostitution of others penalized?
- Does the law provide for the protection of the identity and privacy of victims of exploitation of prostitution?
- Does the law identify the appropriate agencies to provide support services to victims of exploitation of prostitution?
- Does the law require the establishment of refuges or shelters for victims of exploitation of prostitution?
- Does the law mandate clearly the responsibilities of State agencies in addressing prostitution?
- Is good moral character or virginity are not elements of the offence of rape and other forms of sexual assault?
- Does the law provide exit and reintegration programs and alternative income-generating opportunities for women who are victims of trafficking and for women who wish to leave prostitution?

Political and Public Life

CEDAW Obligations

- Articles 7-8
- General Recommendation 23 on women in political and public life
- General Recommendations 30
- Concluding Observations on the country, if applicable

CEDAW Legal Indicators

- Is an equal right to vote guaranteed by the Constitution or the law?
- Is there equal eligibility for election of all publicly elected bodies?
- Are there legal provisions for temporary special measures to enable women to occupy 30% of the legislative bodies?
- Is there equal eligibility for appointment to public positions?
- Is there legal provision for temporary special measures to enable women to occupy 30% of appointed public positions?
- Are there no restrictions in law to women's freedom of movement?
- Do women have an equal right to participate in mass organizations, NGOs, and other civil society groups?
- Is there a law regulating registration and mobilization of NGOs to promote the advancement of women?
- Does the law ensure women's equal participation in all stages of disarmament, demobilization, and reintegration, from negotiation of peace agreements and establishment of national institutions to the design and implementation of programs?
- Does the law guarantee the same criteria for recruitment of female and male diplomats?
- Does the law guarantee equal benefits and opportunities for female and male diplomats?

Nationality

CEDAW Obligations

- Article 9
- General Recommendation 21 on equality in marriage and family relations, par. 6
- Concluding Observations on the country, if applicable

CEDAW Legal Indicators

- Do women have an equal right to acquire or change their nationality?
- Do women have the right to retain their nationality, even if they are married to a non-national or their husband changed his nationality?
- Do women have an equal right to pass their nationality to their children?
- Do women have an equal right to pass their nationality to their husbands?

Education

CEDAW Obligations

- Article 10
- General recommendation No. 36 (2017) on the right of women and girls to education
- Concluding Observations on the country, if applicable

CEDAW Legal Indicators

- Is there a guarantee of equality and non-discrimination in education?
- Does the law prohibit discrimination in the recruitment, selection, and enrolment of students?
- Is there a legal prohibition against non-enrolment or expulsion from school based on pregnancy and maternity?
- Does the law guarantee access to the same curricula, examinations, teaching staff, and school equipment?
- Does the law prohibit discrimination on the basis of sex/ gender in the provision of scholarships and study grants?
- Does the initiative ensure that the same curricula apply to boys and girls so that it offers the same “life skills lessons” to boys and girls, including through the use of temporary special measures?
- Does the law intensify the state efforts to review school curricula and textbooks to eliminate negative stereotypes of women and girls?
- Is there a law on ensuring access to education of disadvantaged groups of women, including girls and women from ethnic minority groups, girls and women with disabilities?
- Do women have equal access to the universities of the Ministry of the Interior/Ministry of Defense? Have any temporary special measures been adopted?
- Does the law ensure understanding of importance of education as a human right and as the basis for the empowerment of women and strengthen the implementation of re-entry policies enabling girls from disadvantaged groups who have dropped out to return to school?
- Are there legal documents ensuring that school administrators, personnel and teachers do not discriminate on the basis of sex/ gender?
- Is sexual harassment by school administrators, personnel, teachers, and schoolmates prohibited?
- Does the definition of sexual harassment include physical, mental, verbal, and visual forms of harassment?

Employment

CEDAW Obligations

- CEDAW, Art. 11
- General Recommendation 13 on equal remuneration for work of equal value
- General Recommendation 16 on unpaid women workers in rural and urban family
- General Recommendation 17 on measurement and quantification of the unremunerated domestic activities of women and their recognition in the GNP
- General Recommendation 19, pars. 17, 18 24 (j and p)
- Concluding Observations on the country, if applicable

CEDAW Legal Indicators

- Is there an explicit guarantee of equality and non-discrimination in employment on the grounds of sex, race, ethnicity, economic and social status, sexual orientation, and other similar grounds?
- Do women have the same employment opportunities as men? (Are there no restrictions on women's choice of employment?)
- Does the law prohibit the use of different recruitment and selection criteria for women and men?
- Does the law prohibit job advertisements that restrict job applicants to a particular sex? (unless it is in the nature of a temporary special measure)
- Does the law provide for temporary special measures to ensure women's employment in male-dominated industries?
- Does the law prohibit dismissal on account of one's gender?
- Does the law contain provisions on equal conditions for termination of employment?
- Is there a legal provision on equal pay for equal work and for work of equal value?
- Does the law require the same criteria women and men for promotions?
- Does the law provide for temporary special measures to ensure equal access by women and men to management positions?
- Does the law require same selection criteria for women and men in relation to access to training and other capacity development activities?
- Does the law provide for temporary special measures to ensure equal access by women and men to training and capacity development opportunities?
- Does the law require equal criteria in job evaluations?
- Does the law provide for equal age and conditions for retirement?
- Does the law provide for equal conditions for the enjoyment of social security benefits (such as for sickness, disability, or unemployment)?
- Is sexual harassment by employers and co-employees prohibited?

- Does the definition of sexual harassment include physical, mental, verbal, and visual forms of harassment?
- Does the law provide for equal protection of women and men from occupational hazards?
- Does the law provide an equal right to collectively organize or join unions?
- Does the law prohibit restrictions on the kinds of work women can perform in the course of her employment?
- Does the law allow both men and women to work safely at night?
- Does the law prohibit dismissal on account of marital status, pregnancy, and maternity?
- Does the law provide for paid maternity leave for a reasonable period of time without loss of seniority or benefits?
- Does the law require the provision of childcare facilities in the workplace or childcare allowance?
- Does the law allow for reasonable nursing time during work hours?
- Does the law provide protection for women from doing heavy work or work proved harmful to her and her fetus' health during the period of her pregnancy?
- Is there paid paternity leave for a reasonable period of time?
- Does the law designate an institution to monitor compliance with gender equality provision in employment?
- Does the law designate an institution to enforce compliance with gender equality provision in employment?
- Are there remedies available against designated monitoring or enforcement institution for failure to perform its monitoring and enforcement functions?
- Are there sanctions for gender discrimination in employment?
- Are victims of discrimination in employment provided compensation for the damages suffered?

Health

CEDAW Obligations

- Article 12
- General Recommendation 19, pars. 19-20
- General Recommendation 24
- Concluding Observations on the country, if applicable

CEDAW Legal Indicators

- Does law guarantee non-discrimination and equal access to health care on the basis of sex/gender?
- Is there a specific guarantee of sexual and reproductive health care for women?
- Is there a law ensuring access to appropriate health-care services relating to pregnancy and maternity for women?
- Is there a law that requires free or affordable health-care services for poor women, women with disabilities, women with HIV, ethnic minority women, LGBTIQ, and other disadvantaged groups of women?
- Is abortion decriminalized?
- Are sex-selective abortion and prenatal sex-selection prohibited?
- Is there an absence of a law that restricts family size?
- Is there no requirement for spousal or family authorization for women to access health care services?
- Is there a law that prohibits discrimination in accessing sexual and reproductive health services on account of marital status?
- Is there a law that guarantees the right to free and informed choice in family planning?
- Is there a law that prohibits coercion, intimidation, or undue influence in family planning programs?
- Is there a law that guarantees access to affordable, effective, and wide-ranging array of family planning methods?
- Is there a law requiring prevention and management of reproductive tract infections, including sexually transmitted infections, HIV/AIDS, reproductive tract cancers, and other gynecological conditions and cancers?
- Is there a law prohibiting discrimination against persons, including women, living with HIV/AIDS and other sexually transmitted infections?
- Is sexual harassment by health professionals prohibited?
- Does the definition of sexual harassment include physical, mental, verbal, and visual forms of harassment?

- Does the law protect the identity and privacy of patients?
- Is there a law requiring the dissemination of information on health care, including sexual and reproductive health care?
- Does the law require the teaching of sexual and reproduction rights for children and adolescents?
- Does the law require gender-sensitive courses on women’s health and gender-based violence in the health workers curricula?

Economic and Social Life

CEDAW Obligations

- Article 13
- General Recommendation 30
- Concluding Observations on the country, if applicable

CEDAW Legal Indicators

- Is there a guarantee for women’s equal participation in business?
- Do women have equal a right to access credit, loans, and funds?
- Are there temporary special measures to enable a percentage of women to access credit, loans, and funds?
- Does the law guarantee non-discrimination in sports scholarships and grants?
- Are there no restrictions in the law on women’s participation in sports events and competitions?
- Does the law guarantee conflict-affected women and girls equal rights to obtain documents necessary for the exercise of their legal rights and the right to have such documentation issued in their own names, and ensure the prompt issuance or replacement of documents without imposing unreasonable conditions, such as requiring displaced women and girls to return to their area of original residence to obtain documents;
- Does the law and policies recognize the disadvantages that women face in claiming their right to inheritance as well as their land in post-conflict contexts, including the loss or destruction of land deeds and other documentation owing to conflict.

Rural Women

CEDAW Obligations

- Art. 14
- General Recommendation 19, par. 21
- General Recommendation 24, par. 28
- General recommendation 34 on the rights of rural women
- Concluding Observations on the country, if applicable

CEDAW Legal Indicators

- Does the law ensure equal access to quality education services and facilities for rural women and girls, including women with disabilities, ethnic minority women, LGBTIQ, and other women facing intersectional discrimination?
- Does the law ensure that quality health care services and facilities are physically accessible and affordable for rural women, including older women, female heads of household, women with disabilities, ethnic minority women, internally-displaced women, LGBTIQ, and other women facing intersectional discrimination?
- Does the law guarantee rural women's rights and access to land, water, and other natural resources on an equal basis with men, irrespective of their civil and marital status or a male guardian/guarantor?
- Are there no restrictions to the women's right to use, encumber, or dispose her property?
- e.g. family authorization?
- Does the law allow women to hold community property/land?
- Does the law ensure women's participation in the design, formulation, and implementation of land, agrarian, infrastructure, and other development policies?
- Is there a law to ensure the representation of ethnic minority women in publicly elected bodies?

Equality Before the Law

CEDAW Obligations

- Article 15
- General Recommendation 21, par. 7-10
- General recommendation 33 on women's access to justice
- Concluding Observations on the country, if applicable

CEDAW Legal Indicators

- Does the Constitution guarantee equality before the law?
- Do women have the same legal capacity and capacity to act as men in all civil matters?
- Do women (regardless of marital status) have an equal right to conclude contracts? (Are there any legal restrictions to women entering and concluding contracts?)
- Do women have an equal right to be executors or administrators of estates?

- Do women have the same right with respect to ownership, acquisition, management, administration, enjoyment, and disposition of property, including land? (Are there no restrictions to the women's right to own, acquire, manage, administer, enjoy, or dispose her property, e.g. family authorization?)
- Does the law enable a women's property to be registered in her own name?
- Can women file cases in court on her own behalf?
- Do women have an equal right to freedom of movement?
- Do women have the same right as men when it comes to choosing her own residence and domicile, regardless of marital status?

Marriage and Family

CEDAW Obligations

- Article 16
- General Recommendation 19, pars. 22-24
- General Recommendation 21
- Concluding Observations on the country, if applicable

CEDAW Legal Indicators

- Is there a legal guarantee of gender equality in the family and marriage?
- Does the law guarantee the same right to all women and men to enter into a marriage?
- Is there an equal minimum legal age of 18 years for marriage?
- Is registration of birth in an official registry required?
- Does the law require personal consent of both spouses to a marriage?
- Where parental advice or consent is needed, is the consent of both parents given equal weight?
- Is bigamy/ polygamy prohibited?
- Are there any restrictions for remarriage after he/she is widowed?
- Does the law require registration of marriage in an official registry?
- Are both spouses equal in the ownership, acquisition, management, administration, enjoyment, and disposition of property?
- Are there any restrictions for requiring spousal authorization for contraception or abortion?

- Do all spouses have equal rights when it comes to choosing and practicing their profession?
- Do women and men have the same grounds and conditions for filing a case of legal separation, annulment, or nullification of marriage or divorce?
- Does the law provide for equal division of property and income acquired during marriage, in particular giving equal weight to both financial and non-financial (e.g. housework and childcare) contributions to the household and family?
- Does the law provide for equal division of property and income acquired during a civil union/domestic partnership without the benefit of marriage (de facto unions)?
- Does the law provide for payment of child support after divorce?
- Does the law provide for maintenance or support of a former spouse after divorce based on need, assets, and earning capacity?
- Is marital property registered in the name of both spouses?
- Does the law require the consent of both spouses on all transactions encumbering or disposing marital property?
- Are custody and access to children based on best interest of a child, regardless of the marital status of parents?
- Does the law require both parents to support, care, and educate the child, regardless of their marital status?
- Does the law provide for an equal guardian?
- Does the law provide for equal rights and conditions for women and men to adopt a child?
- Do women and men have equal inheritance rights?

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