



**Submission on Draft General Recommendation No. 41**

**Dismantling Gender Stereotypes and the Unequal Power Relations that Sustain Them**

The following contains the recommendations made by the Centre for Law and Policy Research (“CLPR”) to the draft of the CEDAW General recommendation No. 41.

I. Introduction

- (i) In the Introduction section, in Paragraph 3, after the reference to Article 2, it should be stated that, “**The reference to “women” should mean and include transgender women.**”
- (ii) In Paragraph 4, some additional grounds of intersectional discrimination need to be included, and the reference to it should read as follows: Women often suffer intersectional discrimination and gender stereotypes based on their sex; gender; age; Indigenous origin, status or identity; race; colour; ethnicity; religion or belief; health status; HIV/AIDS status; disability; nationality; language; socioeconomic status; **pregnancy**; marital status; **single status**; widowhood; class; caste; sexual orientation and gender identity, among other factors.

II. Scope

- (i) When discussing how the transformative potential of tackling stereotypes requires us to focus also on how stereotypes of men are placed in relation to women. In light of the evolving nature of the text, the Committee should include within its scope other marginalised genders such as non-binary persons, and socio-cultural identities that exist in specific contexts such as the travesti in Argentina, two-spirit in Native American communities, kathoey in South East Asia,

hijra in India and so on.<sup>1</sup> Such rights have been recognised in alignment with international law, as laid out in the Yogyakarta Principles, and rights cases across Member States such as by the Supreme Court of India.<sup>2</sup>

- (ii) In Paragraph 11, it should be included that “Notions of women’s inferiority and second-class status underpin systemic discrimination and constraint he life choices and potential of **women, men, transgender and genderqueer or non-binary persons.**”
- (iii) In Paragraph 12 the following needs to be included to recognise stereotypes as a form of sex discrimination<sup>3</sup>: **“This prejudice and stigma is a form of discrimination as it leads to treating people differently, for the reason of not being in conformity with stereotypical generalizations of binary genders.”**
- (iv) In Paragraph 14, it needs to state that, “They are influenced by historical, cultural, religious and legal factors, values and belief systems, rooted in and promoted by patriarchy and rigid gender hierarchies **and gender binaries**, and influenced by formal and informal education systems, gendered knowledge systems, teaching practices, and learning environments, as well as by digital and social media.....”
- (v) In Paragraph 18, for older women, the additional intersectional factors of **caste, gender identity and sexual orientation** should also be included. Along with widowhood and divorce, **‘single status’** should also be included as stereotypes which lead to discrimination against older women.
- (vi) In Paragraph 19, for women and girls with disabilities, the additional intersectional grounds of **race, gender identity and sexual orientation** should also be included.
- (vii) In Paragraph 20, it should be included that, **“LBTI women and those who belong to various socio-cultural identities such as the travesti, two-spirit, hijra, and other marginalised gendered identities are subjected to**

---

<sup>1</sup> Holtmat & Post, ‘Enhancing LGBTI Rights by Changing the Interpretation of the Convention on the Elimination of All Forms of Discrimination Against Women?’ (2015) Nordic Journal of Human Rights 319; Aniruddha Dutta, *Globalizing the Vernacular* (Bloomsbury 2025)

<sup>2</sup> *NALSA v Union of India* AIR 2014 SC 1863; Jayna Kothari et al, ‘Transforming Courts: Court Decisions on Transgender Rights in India’ (CLPR 2025) <<https://clpr.org.in/wp-content/uploads/2025/05/Resource-Book-Transforming-Courts.pdf>>

<sup>3</sup> *NALSA* (n 2)

- intersectional discrimination based on their caste, race and disability.**” The reference to state’s punitive power should also include **‘police violence’**.
- (viii) There should be an additional paragraph added after Paragraph 22 and before Paragraph 23, to address the Stereotypes based on Gender and Caste which leads to aggravated and systemic discrimination against Dalit women including segregation, violence including sexual violence and rape and discriminatory treatment. For example, manual scavenging, a caste-based practice in India involves women as 95% of scavengers, but their labour is normalised and the gendered nature of this oppression is seldom discussed.<sup>4</sup>
- (ix) In Paragraph 25, there is a need to refer to menstrual leave. The last sentence should be revised as follows: “Gender Stereotypes associated with the so-called “unclean”, “untouchable” and ‘impure’ nature of menstruation result in many girls experiencing structural barriers to accessing educational institutions and needed sanitary products, **women face exclusion from public places, religious places and homes due to menstruation and face exclusion in work and employment as menstrual leave is not provided.**
- (x) In paragraph 35, the Recommendation should add: “**Women have equal rights to hold their own religious views and participate in and access religious life and practices and cannot be excluded from participating in religious activities or from entering religious places or temples based on negative stereotypes.**”

### III. Obligations of States Parties

- (i) In Paragraph 37, along with public officials, the inclusion of **‘judges’** who tend to impose their stereotypical and assumptions is extremely necessary.
- (ii) In Paragraph 46, the inclusion in the first sentence is needed: “Gendered assumptions, rather than the relevant facts and evidence, are often reflected in judicial proceedings, **judgements** and the interpretation of legislation. Another sentence that needs to be elaborated is: At time, the use of cultural defence arguments, combined with gender-

---

<sup>4</sup> Human Rights Watch, ‘Cleaning Human Waste’ <<https://www.hrw.org/report/2014/08/25/cleaning-human-waste/manual-scavenging-caste-and-discrimination-india>> (2014); *Patan Jamal Vali vs State of Andhra Pradesh* AIR 2021 SC 2190

insensitive interpretations **and comments and statements by judges** – also contributes to the legal perpetuation of stereotypical and harmful value judgements.<sup>5</sup>

#### IV. Recommendations

- (i) In Paragraph 52 (c ), the inclusion of judges is needed, and the Recommendation of 52 (c ) (iii) should read as follows: Implement effective, comprehensive and ongoing training and capacity building programs for government officials, public servants **and judges.**
- (ii) In paragraph 52(d), all the multi-faceted indeneities and diversities of women should be included as stated in Paragraph 4 – which would include “**age; Indigenous origin, status or identity; race; colour; ethnicity; religion or belief; health status; HIV/AIDS status; disability; nationality; language; socioeconomic status; pregnancy; marital status; single status; widowhood; class; caste; sexual orientation and gender identity**”
- (iii) In paragraph 52(f), to add “**which is publicly accessible**” at the end to explicitly make clear the transparency of monitoring mechanisms.
- (iv) In paragraph 52, after sub-paragraph (g), to add a new sub-paragraph with “**Introduce anti-discrimination legislation that specifically addresses gender discrimination which includes: (i) a general principle of anti-stereotyping in the law; (ii) a duty of reasonable accommodation of diverse and intersectional women’s identities.**”<sup>6</sup>
- (v) In sub-paragraph 52(h), to add clause (iv) “**Implement incentives and laws for business and the private sector to challenge stereotypes in the workplace and broader society.**” This specifies the importance of private sector reforms and working with them, particularly in economies where most of the labour force is in the private sector.

---

<sup>5</sup> Supreme Court of India, Handbook on Combating Gender Stereotypes (2023) <<https://www.scobserver.in/wp-content/uploads/2023/08/Handbook-on-Gender-Stereotypes.pdf>>

<sup>6</sup> In India, the Supreme Court has identified a doctrine of anti-stereotyping in a series of cases which holds that any law which relies on a stereotype that is harmful or somewhat insinuates inferiority of a particular class is a violation of rights. Such a doctrine is a powerful legal tool to ensure that stereotypical laws and measures do not sustain, and can be enshrined in law. See the series of cases including *Anuj Garg v Hotel Association of India* (2008) 3 SCC 1, *Joseph Shine v Union of India* (2019) 3 SCC 39, *Navtej Singh Johar v Union of India* (2018) 10 SCC 1, *Jane Kaushik v Union of India* 2025 INSC 1248 and *NALSA* (n 2).

- (vi) In sub-paragraph 53(a), to add clause (viii) **“Adopt menstrual leave policies in employment and education for all women and girls.”**
- (vii) Specify anti-discrimination: In paragraph 53(c), to add at the end, **“in line with Article 2 of CEDAW”** in order to highlight the anti-discrimination duty in Article 2.
- (viii) In paragraph 53 (e) to include the following: “Adopt effective measures to eliminate gender stereotypes in the field of employment, **including the informal sectors**, including legislation. Policies, awareness raising and capacity building.”
- (ix) In paragraph 53, after sub-paragraph (e), to add sub-paragraph (e2) **“Establishment of laws and policies relevant to sex work, with meaningful participation and consultation of sex workers, including those from marginalized groups and those facing discrimination based on sexual orientation, gender identity, caste, race, ethnicity.”**<sup>7</sup>
- (x) In Paragraph 54(c), at the end add **“and, violence in the name of honour based on caste and gender”**
- (xi) In Paragraph 56 (c) to add that **“abortion should be accessible to all women and girls irrespective of their marital status.”**
- (xii) At the end of paragraph 56, add **“The reproductive autonomy of the women shall be respected irrespective of the marital status, including the women with disabilities.”**
- (xiii) Paragraph 57 (i) should include the judiciary and should state as follows: “Provide mandatory, recurrent, quality, well-resourced and gender-sensitive capacity building and training programs for **judges and** all officials working in the justice sector including in the civil, criminal, family, administrative and customary law systems **and in the higher judiciary.”**
- (xiv) In clause 57(a)(ii), before the word ‘guidelines’, to include ‘legally enforceable’; and at the end **“including the prohibition of gender stereotyped forms of evidence such**

---

<sup>7</sup> Sex work is highly stigmatized and, it also puts those engaged in it at a risk of sexual violence. The intersection of caste, class and gender identities results in distinctive and aggravated experiences of discrimination and violence. For example, in India, the Devadasi system has devolved into a system of sex work. The practice prevails because of religion, caste domination, patriarchy and poverty, despite the presence of laws to prevent it. In *Budhadev Karmaskar v State of West Bengal* MANU/SCOR/55689/2022, the Supreme Court of India held that sex workers are entitled to equal protection of the law. The Court also recognised granting all facilities available to survivors of sexual assault to sex workers who are victims of sexual assault.

**as the two-finger test, or reliance on irrelevant sexual history in cases of sexual violence”**

- (xv) In Paragraph 57 (c ) to state: “Develop data collection initiatives on gender stereotypes in the justice system **and the judiciary**, including the participation of civil society....”. This is necessary because often the judiciary, especially the higher judiciary in many countries would not consider itself to be part of any training or data collection efforts.