

Monitoring Human Rights Standards Internationally – Opportunities for Advocacy

CEDAW its Application to women in sex work

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International Reporting Procedures

1. Universal Periodic Review
2. Special Procedures
3. Treaties signed by countries



1. Universal Periodic Review

- ▶ Reporting process established under the Human Rights Council
- ▶ All countries of UN reviewed in a cycle.
- ▶ 48 countries reviewed in a year
- ▶ Review conducted by the council members. (3 member states)

- ▶ Basis of review
 - ▶ National reports
 - ▶ Special Procedures - Reports of independent human rights experts and groups,
 - ▶ Human rights treaty based reports
 - ▶ Information from national human rights institutions and non-governmental organizations

- ▶ Period of review – once every four years



2. Special Procedures

- ▶ Human Rights Council appoints Special Rapporteur
 - ▶ Independent human rights experts to report and advise on human rights
 - ▶ Can be Thematic or country-specific perspective
 - ▶ Covers civil, cultural, economic, political, and social.
 - ▶ 37 thematic and 14 country mandates
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- ▶ **Process of review**
 - ▶ Country visits
 - ▶ Communications sent by individuals, NGOs of violations, abuse
 - ▶ Expert consultations
 - ▶ Reports submitted to the Human Rights Council; UN General Assembly



Some Key Themes

- Special Rapporteur on [adequate housing](#)
- Special Rapporteur on the right to [education](#)
- Special Rapporteur on the human rights of [migrants](#)
- Special Rapporteur on [trafficking in persons](#), especially women and children
- Special Rapporteur on violence against [women](#), its causes and consequences
- Special Rapporteur on [Right to health](#)

3. International Treaties

- [Human Rights Committee](#) (CCPR) - International Covenant on Civil and Political Rights (1966)
- [Committee on Economic, Social and Cultural Rights](#) (CESCR) - International Covenant on Economic, Social and Cultural Rights (1966);
- [Committee on the Elimination of Racial Discrimination](#) (CERD) Convention on the Elimination of All Forms of Racial Discrimination (1965);
- [Committee on the Elimination of Discrimination against Women](#) (CEDAW) Convention on the Elimination of All Forms of Discrimination against Women (1979) and its optional protocol (1999)
- [Committee against Torture](#) (CAT) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (1984);
- [Committee on the Rights of the Child](#) (CRC) Convention on the Rights of the Child (1989)
- [Committee on Migrant Workers](#) (CMW) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990);
- [Committee on the Rights of Persons with Disabilities](#) (CRPD) International Convention on the Rights of Persons with Disabilities (2006);
- [Committee on Enforced Disappearances](#) (CED) International Convention for the Protection of All Persons from Enforced Disappearance (2006); and
- [Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment \(SPT\)](#) - Optional Protocol of the Convention against Torture (OPCAT) (2002)

What is CEDAW?

- Convention on the Elimination of All Forms Of Discrimination Against Women (CEDAW)
- Adopted by the UN General Assembly 1979
- Came into force in 1981 once it was ratified by 20 countries.
- International Bill Of Rights For Women
- 180 countries have ratified





Section 1. Overview of process

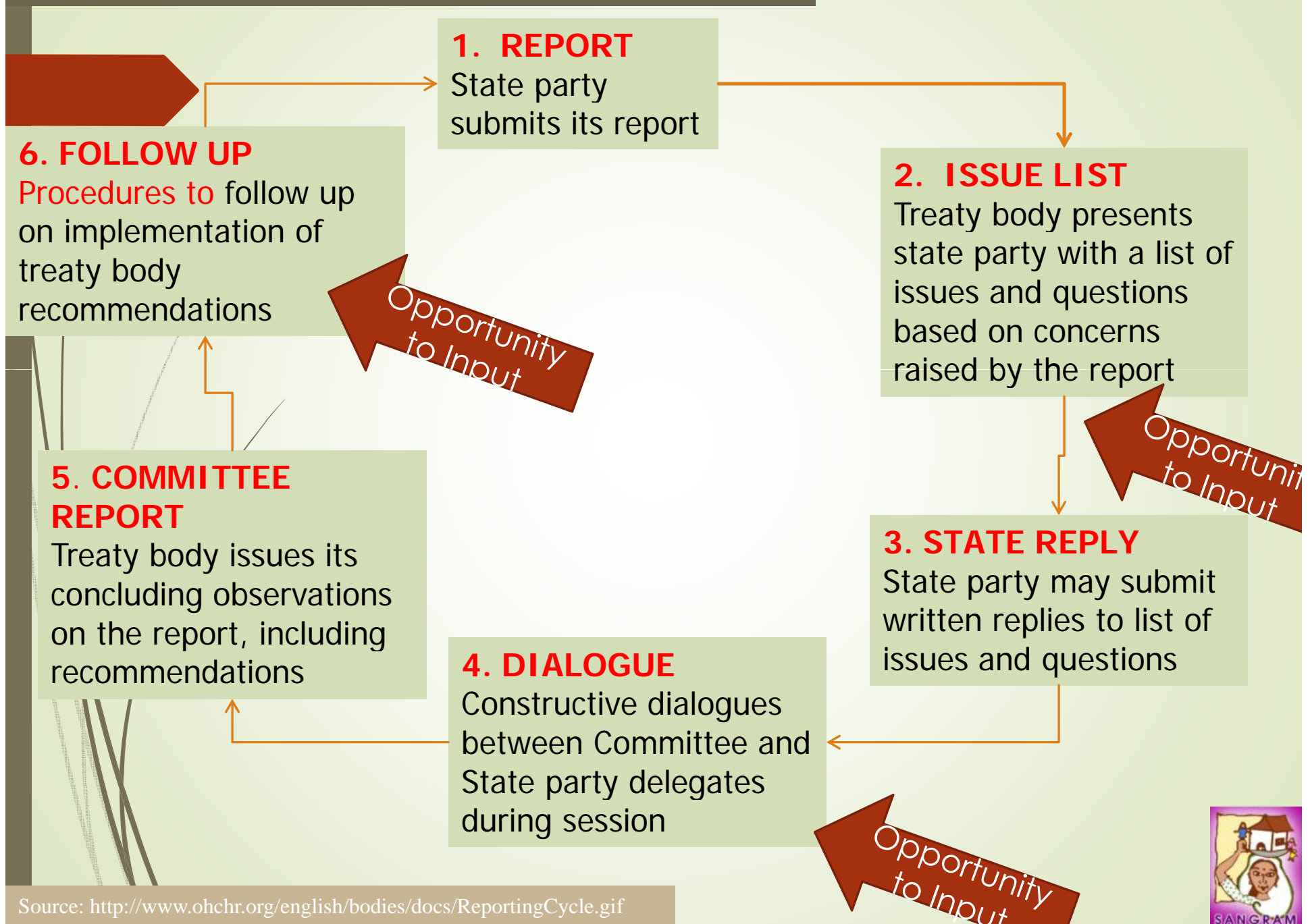


Highlights

- ▶ Enlarging the understanding of the concept of human rights of women (Transgender)
- ▶ Changes in traditional roles in family and society i.e. Public-private roles.
- ▶ Monitoring mechanism: CEDAW Committee, consisting of 23 experts, monitors the implementation of the CEDAW
- ▶ Makes general recommendations.
- ▶ National Reports, submitted every 4 years, to indicate the measures adopted give effect to the provisions of CEDAW



Reporting cycle under human rights treaties





Developing an Alternate or Shadow Report

- Identify the reporting timelines for your country
- Consultations with sex work groups in country to identify issues
- Open parallel discussions with women's groups
- Work with CEDAW experts who have been part of the reporting process to identify reporting issues
- Use the concluding comments of the previous reporting cycle as the base of your alternate report
- Strengthen document with use of evidence and testimonies, reports submitted by thematic holders

Time line for India

- List of issues for CEDAW pre committee – September 2013
- Written reply expected from State – November/ December 2013
- 1st Draft of Shadow Report – December 2013
- Completed report – February first week 2014
- Consultations with women's groups (if needed) – January 2014
- Submission to CEDAW Committee – April/ May 2014
- India session before CEDAW Committee – July 2014
 - Geneva





Session 2. About CEDAW



Key features

- Based on the principle that basic human rights includes equality between men and women.
- Spells out the meaning of equality and how it can be achieved.
- Acknowledges that discrimination against women continues to exist and such discrimination violates the principle of equality of rights and respect for human dignity.
- Focuses on systems, ideology and institutions that deny women their rights





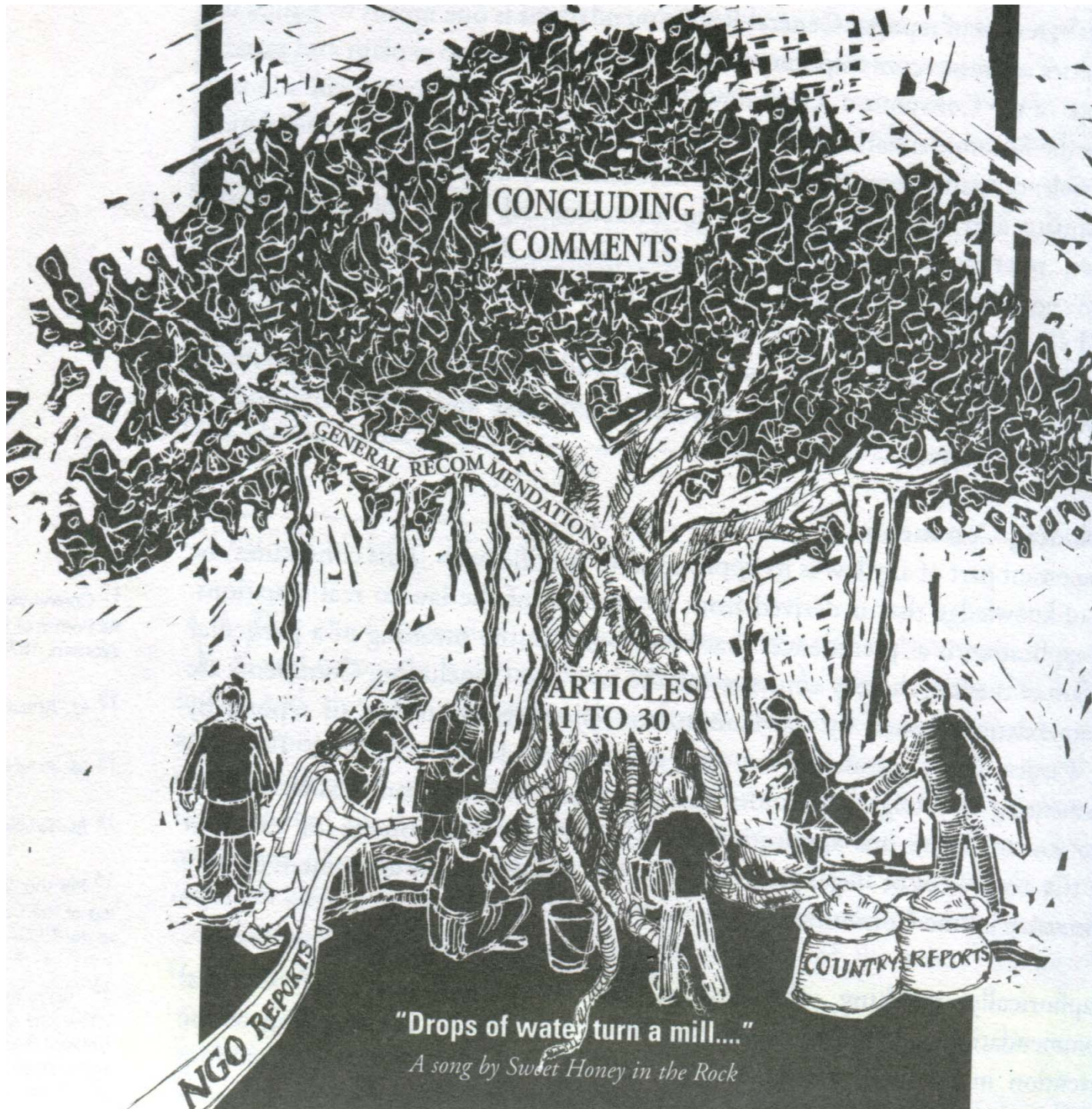
Key features

- Lays down that tribunals and other public institutions should be established to ensure effective protection of women against discrimination.
- Protocol defines discrimination
- State actors, private individuals accountable for violations of rights.
- Seeks changes in Domestic Legislation





Structure



- a) **Text of Articles** – Tree Trunk
- b) **General Recommendations** – Branches that refine and expand the meaning of the Convention
- c) **Concluding Comments** is the Convention at Work in the context of different countries

Courtesy- CEDAW, Restoring Rights to Women, Partners for Law in Development



I. Text of the Convention - Preamble and 30 articles

Article 1.	Definition of Discrimination
Article 2-4	General Obligations of State Parties
Article 5 – 16 obligation	Different areas that affect women and state
Article 17- 30	Constitution and Functioning of Committee

II. General Recommendations – 25 General Recommendations

- Based on the Committees examination of reports and information received from State Parties.
- Interpretive comments on specific Articles of the Convention that the Committee considers to be of concern.
- A means by which the Committee addresses contemporary and cross-cutting issues to explain and expand the scope of the Convention

III. Concluding Comments


Application of the articles to specific country situations. These are recommendations made by the Committee to each State parties. They are like a legal precedence



Provisions overview

- Social Inequality – (Article 5)
- Suppression of trafficking, exploitation of prostitution – (Article 6)
- Political and Public Life – (Article 7)
- International representation and participation – (Article 8)
- Nationality – Article 9
- Education – Article 10
- Employment – Article 11
- Health care – Article 12
- Economic and social life – Article 13
- Rural Women – Article 14
- Equality before law – Article 15
- Marriage and family law – Article 16





Section 3. Provisions in detail

Discrimination against women (Article 1)

- ❑ 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.



State obligation Article 2 – 4

➤ **State obligation (Art 2)**

- To ensure equality of men and women- constitution and appropriate legislation.

➤ **Legal protection (Art 3)**

- On an equal basis-through national tribunals and other public institutions.
- To modify, abolish existing laws, regulations, customs and practices, penal laws which discriminate against women

➤ **Appropriate measure (Art 4)**

- Political, social, economic and cultural- legislation for the development & advancement of women
- De jure and de facto equality



Social equality. Article 5, GR – 19, GR 23

Article 5

- ▶ Appropriate measures to modify the social and cultural patterns, practices and stereotyped roles for men and women to achieve equality and eliminate discrimination.
- ▶ Family education should include maternity as a social function and the recognition- common responsibility of men and women in upbringing children.

GR 19, clause 11

Traditional attitudes, prejudices, practices that justify GBV such as domestic violence, forced marriage, dowry death perpetuate subordination of women at home, community and in every field. Impairs larger recognition of rights

GR 3

Recommends adoption of education and public information programs to achieve social equality



Trafficking and Prostitution (Article 6, GR 19)

Article 6

Appropriate measures and legislation to prevent traffic in women and exploitation of prostitution of women.

GR 19

To design gender specific measures to counter situations that enhance women's vulnerabilities there is a need to recognise that contexts like poverty, unemployment, wars etc. increase risks to women. State obligations for protective and preventive measures should extend and apply to all situation that women as a group more vulnerable to sexual exploitation. The emergence of sexual exploitation like sex tourism also needs to be recognized.



Does CEDAW mention sex work under Article 6/ GR 19?

Under Article 6

State obligations are different with respect to trafficking of women and prostitution.

The Article requires state to suppress trafficking but does not address prostitution in the same terms.

Its language targets neither prostitution nor women but rather the exploitation of the prostitution of women

GR 19 makes specific reference to “prostitution” as follows

Poverty and unemployment force many women, including young girls, into prostitution. Prostitutes are especially vulnerable to violence because of their status, which may be unlawful, tends to marginalize them. They need the equal protection of laws against rape and other forms of violence.





Does CEDAW mention responsibilities of State in respect of women in sex work under Article 6/ GR 19?

GR 19 makes specific reference to State Responsibility in this regard and this can be extended to women in sex work

Specific Recommendations

State parties in their reports should describe the extent of all these problems and the measures, including penal provisions, preventive and rehabilitation subject to trafficking and other forms of sexual exploitation.

Effective complaints procedures and remedies, including compensation, should be provided.



Public and Political life (Article 7)

Article 7

- ▶ Eliminate discrimination in political and public life by ensuring following rights
 - ▶ To vote, to contest elections to public to hold public office
 - ▶ To make decisions and implement them
 - ▶ To participate in NGO and associations.

GR 23

- ▶ Social – economic barriers, cultural stereotypes and limited access to information confine women to the private sphere and exclude them from political life and positions in public offices.
- ▶ States are obliged to identifying and overcoming barriers through the following measures
 - ▶ Changing discriminatory attitudes
 - ▶ Appointing women to senior decision making positions and achieving a balance between men and women in elected positions
 - ▶ Seeking the advice of women on various issues
 - ▶ Encouraging political parties, trade unions, NGOs etc to embrace the principle of equal opportunity
 - ▶ Introducing temporary special measures to ensure enjoyment of the right to participate in public life

(Clauses 15,18,22,26,29,32,42,43,45,47)



International Representation and participation (Article 8)

Article 8

- ▶ Equal opportunity to women to represent their governments at international level as well as in working for international organisations
- ▶ Extends to participation and representation of women from the local and national arenas to the international arena

GR 8

Immediate implementation and direct use of temporary special measures is particularly recommended for increasing women's representation [clause 43]

GR 23

Under representation or concentration of women at junior levels emanates from assumption of gender roles which gets reflected in the absence of objective criteria and processes for appointment.

Adequate representation of women is necessary for the integration of gender perspective in international affairs including international negotiations, humanitarian assistance etc.



Nationality (Article 9, GR 21)

Article 9

- ▶ Married woman's right to choose, acquire, change and retain nationality.
- ▶ Neither marriage to an alien nor change of nationality by husband during marriage shall change nationality of wife or render her stateless or force upon her the nationality of husband
- ▶ Equal rights to women with respect to the nationality of their children.

GR 21

Nationality is critical to full participation in society and access to public benefits.

It should not be determined by or dependent on the nationality of husband or father, but by adult woman herself [Clause 6]



Education (Article 10, GR 19)

Article 10

Seeks to achieve equality in education through

- Creating same conditions for career and vocational guidance regarding access to and achievement at all levels of education
- Having equal access to studies/education, same standard of education, educational infrastructure, programmes of continuing education and specific educational information with respect to health and family planning
- Eliminate gender stereotypes, reducing female student drop out.
- Creating the same opportunities for scholarships, study grants and to participate in sports and physical education

GR19

Education and public information be geared towards elimination of prejudices against women



Employment (Art 11, GR 13, GR 16, GR 19)

Article 11

- ▶ Right to work, free choice of profession and same employment opportunities
- ▶ Right to equal remuneration, benefits and conditions of service
- ▶ Right to social security, protection of health and safe working conditions including accommodating the reproductive function of women by introducing maternity leave with pay and other benefits
- ▶ Prevention of discrimination against women on the ground of marital status or pregnancy

Measures should include

Necessary social services to enable parents to combine family obligations with work responsibilities and participation in public life –

Establishment of a network of child – care facilities

Protection to women during pregnancies in types of work proved to be harmful to them



Employment (Art 11, GR 13, GR 16, GR 19)

GR 13

Ratification of ILO Convention 100 for implementation of the principle of equal remuneration for work of equal value

GR 16

Steps to guarantee social security and social benefits to women working enterprises owned by family member

GR19

Defines sexual harassment as a form of discrimination at the workplace
Recommends training, employment opportunities and monitoring of conditions of domestic workers to protect them from violence



Health care (Article 12, GR 14, GR 15, GR 19, GR 24)

Article 12

- ▶ Equal access to health care services, including family planning.
- ▶ Appropriate services in connection to pregnancy, confinement and post natal period.

GR14 - Measures to eradicate female circumcision

GR15 AIDS combat programmes must incorporate the rights and needs of women in relation to their reproductive role and subordinate position be adopted

Participation of women in prevention programmes is to be encouraged

GR19 – Violence against women puts their health and life at risk

Prevent coercion of women in respect to fertility, reproduction and recommends fertility control to help unsafe medical procedures

GR24 – Ensure women's right to sexual information, education and services (including illegal women residents and those who have been trafficked with due regard to their confidentiality)



Health care (Article 12, GR 14, GR 15, GR 19, GR 24)

GR19

Violence against women puts their health and life at risk

Prevent coercion of women in respect to fertility, reproduction and recommends fertility control to help unsafe medical procedures

GR24

Ensure women's right to sexual information, education and services (including illegal women residents and those who have been trafficked with due regard to their confidentiality)

Recognizes specific health care needs of women in difficult circumstances such as those in armed conflict, **prostitution** or trafficking and women with physical and mental disabilities



Economic and social life (Article 13)

- ▶ Equality in economic and social spheres within and outside the family to be ensured
- ▶ States are obliged to eliminate discrimination perpetrated by government and private actors like financial institutions and the family. This includes right to
 - ▶ Family benefits
 - ▶ Financial credit
 - ▶ Participation in recreational and cultural activities



Rural women (Article 14, GR 19)

Article 14

Draws attention to rural women whose economic contribution, survival needs and disadvantages require distinct recognition for designing appropriate framework.

Following areas require attention

- Rural women to have equal opportunity and benefits from rural development, SHG, cooperative, to participate in development planning, community activities.
- Access to adequate health care facilities- information, counseling and services on family planning, agricultural credit, loans, marketing facilities. Equal treatment in land and agrarian reforms, land re settlement schemes.
- Enjoy adequate living conditions- housing, sanitation, electricity, water supply, transport and communication.

GR19

- Rural women are at special risk of GBV because of traditional attitudes and forced migration to towns for employment.
- Access to services for victims of violence and special service to rural women and isolated communities



Equality before the law (Article 15, GR 21)

Article 15

- ▶ Equal legal capacity and opportunity to exercise that capacity and prohibits restriction – in matters of contracts, to administer property and in all stages of procedure in courts and tribunals.
- ▶ Equal rights regarding movement of persons, freedom to choose residence and domicile.
- ▶ Private restriction on legal capability and status of women must be treated as null and void

GR21

Restriction on women's capacity to contract, access financial credit, lesser evidentiary value to statement of women witnesses, choice of domicile amount to denial of equality

Limiting, nullifying or making capacity contingent or subordinate to men even through a private agreement amounts to a restriction



Family, marriage , reproductive rights (Article 16, GR 19, GR 21)

Article 16

- Eliminate discrimination in matters relating to marriage and family.
- Equal right- to enter into marriage, to choose a spouse, enter into marriage only with free and full consent, equal rights and responsibilities during marriage and its dissolutions.
- Same rights and responsibilities as parents irrespective of marital status and also in relation to children.
- Equal rights-guardianship, wardship, trusteeship and adoption of children or similar institutions.
- Right to chose a family name, profession and occupation
- Equal rights- ownership, acquisition, management, administration, enjoyment and disposition of property.
- Legislation to specify the minimum age of marriage and registration of marriages in an official registry compulsory.



Family, marriage , reproductive rights (Article 16, GR 19, GR 21)

GR 19

Compulsory sterilisation and abortion infringes right of women to decide on the number and spacing of children

Violence against women in family impairs right to participate in family and public life

GR21

Laws and customs grant men a greater share of property upon inheritance, dissolution of marriage or de- facto relationship.

States must facilitate the endowment of equal rights to own, dispose off and earn profit from property owned by parties during marriage or de -facto relationships.

On division of property financial and non – financial contribution should weighed equally

Rights of women should be secured irrespective of marital status

