

## Position Paper on Gender Stereotypes

### Introduction

The Dutch CEDAW Network (hereinafter: the Network) welcomes the invitation to contribute to the process of developing CEDAW General Recommendation 41 on Gender Stereotypes. This General Recommendation (hereinafter: GR 41) provides an important and much-appreciated opportunity to specify State obligations on this critical topic. This position paper presents overarching themes and underscores key considerations essential in addressing gender stereotypes and combatting their negative consequences.

This paper is submitted on behalf of [44 NGOs](#) and experts involved in the Network.

### General remarks

#### Definitions and the interrelatedness of stereotyping, stigma and discrimination

The concepts of stereotyping, stigma, and discrimination are closely related, and their differentiation is essential for understanding their role in perpetuating inequality. GR 41 should include clear definitions of these concepts and their interrelations. The Committee describes wrongful gender stereotyping as both the “root cause and consequence” of discrimination, as well as a form of discrimination itself, reflecting the complexity of the relationship between stereotypes and discrimination. Accordingly, GR 41 should discuss the nature of gender stereotyping in relation to discrimination against women, with particular attention to the connections between stereotyping and direct, indirect, and structural discrimination.

Additionally, GR 41 should elaborate on various forms of intersectional gender stereotypes affecting LGBTIQ+ people, black and migrant women, older women, women with disabilities, etc. Building on the definition of “gender” in GR 33, para 7, “*the concept of gender refers to socially constructed identities, attributes and roles for women and men and the cultural meaning imposed by society on to biological differences*”, GR 41 could acknowledge transgender and non-binary people.

Furthermore, it is important for GR 41 to address the various levels at which stereotypes occur. Gender stereotypes shape individual behaviour while also being embedded in societal and cultural practices, as well as in social, economic, and legal structures.

A clear definition of structural discrimination should also be included in GR 41. This definition should encompass formal institutions such as laws, policies, and programmes, as well as cultural practices and everyday interactions. The definition could draw from GR 36, para 26, which describes the structural dimension of discrimination as being “*rooted in prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women*”.

Additionally, GR 41 should emphasise the importance of “transformative equality”, as highlighted in previous GRs, including GRs 25 and 38. Transformative equality is a central principle guiding the implementation of Article 5, particularly concerning the obligation to combat structural discrimination. An explicit discussion of transformative equality in GR 41 would underscore its critical role in achieving substantive gender equality.

## State obligations

To ensure that State obligations are clearly understood and to provide specific guidance to State parties on legislative, policy, and other appropriate measures to address and eliminate gender stereotypes, GR 41 should adopt the three levels of State obligations. This framework, previously used in GR 28 and GR 35 to outline State obligations under Article 2 in relation to Article 5(a) and (b), categorises obligations into the duties to respect, to protect, and to fulfil. Employing this structured approach would enable GR 41 to present a clear analytical structure, offering a comprehensive and systematic overview of State obligations.

Article 2(e) and (f) of the CEDAW Convention should be interpreted as imposing these three levels of State obligations – respect, protect, and fulfil – similar to the approach taken in CESCR General Comment No. 14 paragraph 33, regarding the right to health.<sup>1</sup> The obligation to *respect* requires States to refrain from employing stereotypes in their policies and laws. The obligation to *protect* mandates that States take measures to prevent third parties from perpetuating stereotypes. Lastly, the obligation to *fulfil* entails that States adopt appropriate legislative, administrative, budgetary, judicial, promotional, and other measures to ensure the full realisation of the right to live free from harmful stereotypes.

## The potential of Article 5

The Committee consistently emphasises that Articles 6-16 should be “read with” Article 5. Accordingly, Article 5 can be understood as both a self-standing and a transversal norm.<sup>2</sup> In this context, it is essential for GR 41 to clarify the relationship between parts (a) and (b) of Article 5, as these subsections are interconnected, with the realisation of one objective depending on the realisation of the other.

GR 41 should provide a detailed elaboration on the specific nature and scope of State obligations under Articles 5 and 10(c). Moreover, Article 5 offers a unique opportunity to interpret CEDAW as prohibiting all forms of discrimination by sex, gender, and gender identity. This interpretation is grounded in the understanding that the construction of gender stereotypes and rigid gender roles is rooted in the wrong assumption of two opposite and mutually exclusive biological sexes who are attracted to each other.<sup>3</sup>

## Overarching themes

It is important to clarify that the examples of stereotypes included throughout GR 41 are intended to be illustrative rather than exhaustive. Such a clarification would help prevent potential misinterpretation by State parties, ensuring that the provided examples are understood not as the only manifestations of gender stereotypes but as representative illustrations of the broader and more complex nature of the issue. To further aid understanding, we identify three overarching themes regarding stereotypes about women, which are distinct but interwoven.

<sup>1</sup> CESCR General Comment No. 14 para 33.

<sup>2</sup> Timmer, A., & Holtmaat, H. M. T. (2022). *Article 5*. In P. Schulz, R. Halperin-Kaddari, B. Rudolf, & M. Freeman (Eds.), *The UN Convention on the Elimination of All Forms of Discrimination Against Women and its Optional Protocol: A Commentary* (2 ed.). Oxford University Press.

<sup>3</sup> *Ibid.* 227; Gross, A. M. (2008). *Sex, Love and Marriage: Questioning Gender and Sexuality Rights in International Law*. 21 *Leiden Journal of International Law* 235, 251.

## **Stereotypes about women's incapacity for self-determination and bodily autonomy**

The first theme addresses stereotypes rooted in the belief that women lack the rational capacity to make decisions about their own bodies and lives, directly infringing upon women's rights to self-determination and bodily autonomy. Examples are laws and practices that restrict women's reproductive autonomy, for instance, by limiting access to safe abortion, imposing mandatory 'reflection periods' before accessing abortion services, prohibiting home birth, or denying agency in childbirth. Such laws, policies, and practices imply that women are incapable of making thoughtful decisions.<sup>4</sup> Another example is laws and policies based on the belief that women cannot voluntarily consent to sex work, which originate in essentialist stereotypes of female sexuality and 'true women'. Framing them as victims by definition not only reduces women to their bodies but also obscures the actual violence committed against them. Denying a particular group of women the capacity to give or withhold consent deprives them of agency and strips them of the right to bodily autonomy.<sup>5</sup> This is patriarchal, actively disempowers these women, and justifies repressive measures under the guise of protection while absolving States of their duty to protect human rights for all women.

## **Stereotypes rooted in essentialist and generalised views of gender**

The second theme focuses on stereotypes that arise from essentialist and generalised binary notions about men and women. These stereotypes affect preconceptions about women and men, and lead to the denial of intersex and gender-diverse persons. Examples are campaigns against the inclusion of transgender women in womanhood, forced medical interventions on intersex children<sup>6</sup>, and discrimination against LGBTIQ+ individuals who do not conform to traditional gender norms. They also shape systemic practices, such as the gendered labour markets, where "women's work" is undervalued and underpaid, and legal barriers for same-sex couples/parents. Collectively, these examples reinforce traditional domestic roles for women and perpetuate systemic inequality.

## **Stereotypes of female victimhood and the focus on protection rather than rights**

The third theme centres on stereotypes portraying women as inherently weak, vulnerable, dependent, and in need of protection. Such narratives are often used to justify repressive measures that curtail women's rights and freedoms under the guise of protection "in their best interest". Examples include the dismissal of women's consent in medical decisions during childbirth, imposing legal constraints on widowed and divorced women, and prohibitive regulations on the wearing or non-wearing of the hijab.<sup>7</sup> These stereotypes also appear in migration policies, where refugee women are treated as vulnerable victims rather than individuals with full independent rights. Such protective measures, while claiming to protect women, ultimately reinforce the notion of female dependency and undermine their empowerment and autonomy.

<sup>4</sup> Siegel, R. (2012). *Dignity and sexuality: Claims on dignity in transnational debates over abortion and same-sex marriage*. Oxford University Press.

<sup>5</sup> Wijers, M. (2024). *Sex Worker Rights and Human Rights: A Double-Edged Sword. Rights, Resistance and Mobilisations* (thesis).

<sup>6</sup> Leemrijse, C. & van Dulmen, S. (2022). *Genitale operaties bij kinderen met DSD jonger dan 12 jaar*. Utrecht: Nivel, 2022. *Genital surgery in children with DSD under 12 years of age*.

<sup>7</sup> Billaud, J. & Castro, J. (2013). *Whores and Nigabeés: The Sexual Boundaries of French Nationalism*. *French Politics, Culture & Society*, 31(2); Khoja-Moolji, S. S. (2016). *The Making of Humans and Their Others in and through Transnational Human Rights Advocacy: Exploring the Cases of Mukhtar Mai and Malala Yousafzai*. *Signs: Journal of Women in Culture and Society*.

## Gender stereotyping in relation to the substantive rights under the Convention

### Political participation, Art. 7

An important issue to include in GR 41 is the negative impact of stereotypes on women's political participation. Examples are (online) campaigns against female (candidate) politicians that exploit gender stereotypes to belittle them and disqualify them from political office, often by portraying them as 'witch' and 'bitch'. These campaigns reinforce essentialist and stereotypical notions about women and the traditional division of roles between women and men. A notable example is the use of double-bind strategies, which involve communicating contradictory stereotypes that trap women into either behaving like a man or being seen as too feminine and incompetent for leadership, thereby creating a no-win situation for women leaders.

Interdisciplinary research on gendered character assassination<sup>8</sup> highlights the use of targeted strategies to discredit women based on their gender. GR 41 should underscore the urgent need to counter these trends and recommend State parties actively combat gender stereotypes and gendered attacks in political discourse, both online and offline. Examples include promoting equal and respectful portrayals of women in media, implementing legal frameworks to address cyber-bullying and harassment, and fostering a culture of accountability to ensure that women can participate fully and freely in political life. Studies show that women aspiring to enter politics hesitate because of online (threats of) violence against women politicians.<sup>9</sup>

### Migrant and refugee women, Art. 9 and 16

GR 32 highlights that Article 5 of the Convention requires States to assess asylum claims free from gender bias or stereotypes. Examples include the failure to recognise gender-based violence as a ground for asylum, the different assessment of male and female political activities (writing a political pamphlet is considered to be political; providing medical and other care to dissidents is not), and the tendency to grant women dependent asylum status rather than their own. This underlines the need to conduct assessments in a gender-responsive manner, avoiding preconceived notions about gender roles and the value of men's and women's work. GR 41 should further emphasise this point.

In line with this, the Network asserts that State policies must proactively prevent women, whether refugees or migrants, from being placed in a situation of dependency, for example, by making their residence permit dependent on a male partner. Research shows that this makes migrant women more vulnerable to violence, reinforces traditional gender roles and stereotypes, and undermines women's personal autonomy.

### Stereotypes and education, Art. 10(c)

Gender stereotyping in education pushes girls towards traditional 'female' courses and boys towards 'male' ones, which has a lasting impact on women's future employment opportunities and income. Consequently, entrenched cultural stereotypes reinforce labour market segregation and shape the career choices of girls and boys. GR 41 should stress

<sup>8</sup> Keohane, J. [Such a Nasty Women, Character Attacks in the 2016 U.S. Presidential Debates](#). In *Historica*, Vol 47 Nr 3 (2024).

<sup>9</sup> Alliance Politica (2023). [Anyone still wanting to enter politics?](#)

the importance of early intervention to challenge and dismantle stereotypes, fostering more equitable education and professional opportunities.

GR 41 should also emphasise the duty of States to ensure that educational programmes do not reinforce traditional stereotypes about masculinity and femininity and male and female sexuality. This is particularly important in the context of sexual health education programmes, which are fundamental for children's access to comprehensive education on sexual and reproductive health.

Moreover, integration courses for migrants and refugees often reinforce traditional gender roles based on stereotypes, with men seen as breadwinners and career-oriented, while women are expected to focus on childcare and domestic responsibilities. GR 41 should recommend State parties to ensure inclusive and equitable learning opportunities for all migrants and refugees and to challenge stereotypes that confine migrant and refugee women to domestic roles and reinforce their dependent positions.

### **Social and economic rights, Art. 11 and 13**

Gender stereotypes (art. 5(a)) and fixed parental gender roles (art. 5(b)) significantly impact women's social and economic rights. GR 41 should elaborate the relation between these articles in addition to the issues raised in the concept note. Holtmaat & Timmer provide a comprehensive overview of the Committee's concerns in this respect in its *Concluding Observations, Communications and Inquiries*, which can be incorporated into it.<sup>10</sup>

Additionally, GR 41 should address the wrongful gender stereotypes about women's work that jeopardise the position of migrant women workers and in that way expand the recommendations to State parties in GR 26, such as the assumption that work with respect to child- and elderly care is unskilled work that can be done by any woman, resulting in barriers to obtaining a working and residence permit for home care workers from other countries on the one hand and diminished (or even absent) social protection and low pay for women workers in these sectors, including undocumented workers, on the other hand.

### **Women's sexual and reproductive rights, Art. 12**

Restrictive abortion laws are often rooted in the stereotype that women are incapable of making informed decisions about their own bodies and health. These laws perpetuate harmful gender stereotypes by portraying women's primary societal roles as mothers, caregivers, and objects, vessels that carry the unborn into the world, without rights. Aligning with CEDAW's *Inquiry into Poland's Abortion Law Report*, GR 41 should explicitly recognise that such laws reinforce discriminatory gender stereotypes.<sup>11</sup> The same stereotype underpins other laws and policies that seek to control women's bodies and sexuality through repressive measures and state control under the guise of 'protection'.

Furthermore, gender stereotyping can lead to obstetric violence and mistreatment in childbirth<sup>12</sup>, a critical issue that needs to be addressed in GR 41 as a manifestation of

<sup>10</sup> Timmer & Holtmaat 242-244.

<sup>11</sup> CEDAW/C/POL/IR/1.

<sup>12</sup> Report of the UN Special Rapporteur on Violence against women and Girls, Šimonović, D. (2019). [A human rights-based approach to mistreatment and violence against women in reproductive health services with a focus on childbirth and obstetric violence](#). Definition in para 12.

gender-based discrimination.<sup>13</sup> Building on the case *N.A.E. v. Spain*, GR 41 should explicitly acknowledge obstetric violence and other forms of mistreatment in childbirth as a consequence of harmful gender stereotypes. This includes emphasising the necessity of informed consent and prioritising the autonomy of women in all aspects of their sexual and reproductive health.

Another example of the harmful effects of stereotypes is the focus of medical research and medicine on the male body as representative of all human bodies.

### **Access to justice, Art. 15**

Building on GR 33, which highlights the grave consequences of gender stereotyping on women's ability to access justice, GR 41 could emphasise that "*gender stereotyping can occur in all stages and by all actors involved in the justice system: judges, magistrates, and adjudicators but also prosecutors, law enforcement officials, and others*".<sup>14</sup> Individuals, in particular of marginalised groups most affected by systemic stereotyping, often lack adequate legal representation to challenge these injustices. Moreover, State parties increasingly rely on algorithms in decision-making processes. Such biases embedded in automated systems further marginalise vulnerable groups, exacerbate existing inequities and are difficult to challenge without legal representation. GR 41 should address the use of IT when it comes to access to justice.

In addition to addressing judicial stereotyping, GR 41 should elaborate on obligations related to combating underlying stereotypes. Focusing solely on judicial stereotyping risks leaving the stereotypes in other layers and sectors of society unaddressed. For example, in *N.A.E. v. Spain*, CEDAW focused on judicial stereotyping but overlooked the pervasive stereotypes among medical personnel.<sup>15</sup> Gender-based stereotypes not only influence judicial decision-making but also deeply permeate medical practices, public institutions, and societal norms, perpetuating discrimination and violence against women in various forms.

In the context of Art. 2 (e) in relation to Art. 5, GR 41 should elaborate on the necessity of addressing gender stereotypes at all levels of society, including among non-state actors, such as medical professionals, educators, and policymakers, who play a significant role in shaping societal attitudes and behaviour.

### **Family law, Art. 16**

Building on Communication 47.2012, GR 41 should explicitly address how gender stereotypes embedded in family law and practised by legal practitioners, including judges and lawyers, affect the rights of women and girls, including the right to live.<sup>16</sup> Noteworthy is that the Spanish Supreme Court overruled the government's refusal to implement CEDAW's recommendations in this view.<sup>17</sup>

<sup>13</sup> *N.A.E. v. Spain*, CEDAW/C/82/D/149/2019.

<sup>14</sup> Timmer & Holtmaat 244.

<sup>15</sup> Van Leeuwen, F. & Malkoc, G. (2022). [Obstetric Violence as a Violation of Human Rights: CEDAW's Second Decision a Welcome Addition but Not Enough](#). *Oxford Human Rights Hub*.

<sup>16</sup> Communication No. 47.2012 *González Carreño v. Spain*.

<sup>17</sup> Machiko Kanetake annotated the case in *The American Journal of International Law Vol. 113 (2019) 3*.

Stereotypes and gender bias perpetuate double standards in family and child protection law. Fathers' behaviours are overlooked, downplayed, or justified, and their violence remains invisible, while mothers tend to be blamed for the violence committed by the male partner.<sup>18</sup> When abused women voice concerns or allegations of abuse or mistreatment by their (ex)partners, their voices are dismissed. By characterising women as 'uncooperative', 'hostile' or 'alienating' mothers, professionals and the justice system perpetuate these double standards and reproduce harmful patterns of violence. Moreover, the invisibility of men's violence may lead to fathers not being held accountable for their actions and mothers being blamed for 'failing to protect'. Abused women's protective strategies are misunderstood and misinterpreted, leaving mothers and their children at risk for further harm and suffering. Therefore, GR 41 should address stereotypes, gender bias, and these damaging effects in family law, especially when it comes to child protection and custody cases.<sup>19</sup>

### Gender-based violence and harmful practices

The link between gender stereotyping and gender-based violence goes two ways: gender stereotyping causes gender-based violence against women as well as perpetuating its existence.<sup>20</sup> This relationship underscores the importance of reiterating the message from GR 35 in GR 41: "*in accordance with articles 2(f) and 5(a) of the Convention, the adoption and implementation of measures to eradicate prejudices, stereotypes and practices that are the root causes of gender-based violence against women*" is essential.<sup>21</sup>

Harmful stereotypes frequently underpin States' inadequate response to gender-based violence, including victim-blaming beliefs that hold women responsible for their own safety and force them to prove their (sexual) 'innocence' in cases of, for example, trafficking and rape. Additionally, gender-based violence, or the threat thereof, can confine women to traditional roles, pressuring them to be modest and submissive.

Moreover, GR 41 should address the stereotypical masculine behaviours that perpetuate violence against women. As is highlighted in GR 35, this includes: "*the ideology of men's entitlement and privilege over women, social norms regarding masculinity, and the need to assert male control of power, enforce gender roles or prevent, discourage or punish what is considered to be unacceptable female behaviour*".

Furthermore, GR 41 should also discuss the promotion of harmful practices (such as FGM) that lead to violations of women's rights in relation to presumed violations of other human rights, such as freedom of religion or freedom of expression. Even in countries where FGM is a crime, (male) leaders who promote FGM and (local) governments that allow these practices are acquitted. Gender stereotyping contributes to the idea that in balancing different human rights, women's human rights are less universal and less important than other human rights (like those of the perpetrator).

### Gender stereotypes affect LGBTIQ+ persons

<sup>18</sup> Lapierre, S. et al (2024). [Abused Women as 'Alienating' Mothers and Violent Men as 'Good' Fathers: Double Standards in Child Protection and Child Custody Proceedings](#). Child & Family Social Work.

<sup>19</sup> David Mandel (2024) *Stop Blaming Mothers and Ignoring Fathers: How to Transform the Way We Keep Children Safe from Domestic Violence* offers useful examples of gender stereotypes used by judges and other professionals.

<sup>20</sup> Timmer & Holtmaat 237.

<sup>21</sup> GR 35 paras 19, 26 and 30.

Stereotypes about men and women also negatively affect LGBTIQ+ persons. This is commonly acknowledged in the concept of intersectional or multiple discrimination. GR 41 should address the discrimination faced by lesbian, bisexual, and transgender women as well as intersex persons as a result of having to conform to stereotypical ideas of masculine or feminine appearance or behaviour. A broad interpretation of Article 5 can benefit all persons, irrespective of how they define themselves. The obligation to modify gender stereotypes and fixed parental roles should enable everyone to express their gender identity in the way they choose, without suffering adverse discriminatory consequences.

The Network also recommends addressing the distinct challenges faced by transgender women, many of which stem from essentialist and stereotypical views of women. For example, the misconception fuelled by gender stereotypes that transgender women pose a threat in spaces such as toilets or dressing rooms perpetuates deeply ingrained misconceptions about their identities and reinforces gender-based discrimination. Such narratives undermine the dignity and safety of transgender women while reinforcing broader patterns of gender-based discrimination.

### **Media and advertising**

The media and advertising sectors in many countries continue to promote stereotypical and sexualised portrayals of women. Often State parties maintain a passive approach to addressing negative stereotypes and hate speech in the media, using an excessive reliance on freedom of speech as justification for inaction. GR 41 should include a dedicated section addressing gender stereotypes in media and advertising, alongside proposing concrete measures for positive action.

The forthcoming publication on Gender Stereotyping in Advertising and the Media by the European Equality Law Network can be helpful in this respect. It provides a comprehensive analysis of prevalent stereotypes in media and offers practical recommendations for improvement.

### **Information Technology and Artificial Intelligence**

AI often mirrors the gender stereotypes and biases embedded in society, shaped by stereotypes and norms. Addressing these biases in data, AI, and algorithms requires transparency in their use, along with efforts to investigate and combat the biases in the data that AI and algorithms rely on. Equally important is promoting gender diversity within organisations that develop or utilize AI, as this can help mitigate bias. This approach must also ensure the protection of privacy, human rights, and democratic values.<sup>22</sup> Therefore, GR 41 should emphasise the critical need for transparency in the development and deployment of AI technologies.

The UN Secretary-General's report for Beijing 30+ process underscores that while technological advances, including AI, hold great promise for gender equality, they are not currently aligned with this goal.<sup>23</sup> The new risks they present are largely unaddressed. These risks include deepening existing inequalities, reinforcing gendered power dynamics, enabling various forms of violence and abuse, and facilitating the unchecked spread of misogynistic and hate-based rhetoric. These risks are closely linked to harmful gender

<sup>22</sup> UN Women (22 May 2024). [Artificial Intelligence and gender equality - explainer](#).

<sup>23</sup> [The UN Secretary General report for the Review and appraisal of the implementation of the Beijing Declaration and Platform for Action](#). (27 December 2024).



stereotypes that shape the development and deployment of AI algorithms. When AI systems are trained on biased data, they replicate and amplify these stereotypes, entrenching gender inequalities in, e.g. workplace hiring.

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