

Checklist: Indicators to Assess Legislative Compliance with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

Preface

These Legislative Indicators are a tool used to measure the extent to which a country's laws are in compliance with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). CEDAW, commonly described as the bill of rights for women, requires States that are party to the Convention to integrate the principle of equality into their legal systems and laws. States do this by repealing all laws that have a discriminatory effect against women, and adopting laws that protect women against discrimination. CEDAW also goes a step further in requiring States to work towards substantive equality for women: equality both in law and in fact that focuses on, not just equal treatment between men and women, but equality of outcomes and impacts of laws and policies, ensuring the empowerment and dignity of women. These Indicators were developed with a review of the text of the Convention, CEDAW Optional Protocol cases, and the CEDAW Committee General Recommendations and Concluding Observations. The indicators ensure that women's human rights issues common to the region, as identified from Concluding Observations, are taken into account. These include:

- Low level of women's political participation
- Violence against women, including violence around political participation
- Barriers to girls' education, including teenage pregnancy, gender stereotyping
- Female unemployment and poverty
- Vulnerability of rural women
- School dropouts by girls, especially caused by early pregnancy
- Vulnerability of women in de facto unions
- Trafficking and sexual exploitation of women
- Impacts of climate change and other emergencies on women, especially rural women
- Lack of sex-disaggregated data in all areas covered by the Convention

CEDAW Article	Legislative Indicator	Corresponding Authority	CEDAW Compliance (yes/no/partial)
Art. 1	<p>1.1 Does the State party's constitution guarantee human rights and fundamental freedoms to men and women equally, irrespective of a woman's marital status, including in the political, economic, social, cultural, civil or any other field?</p> <p>These rights and freedoms include:</p> <ul style="list-style-type: none"> i. the right to life; ii. the right not to be subject to torture or to cruel, inhuman or degrading treatment or punishment; iii. the right to equal protection according to humanitarian norms in time of international or internal armed conflict; iv. the right to liberty and security of person; v. the right to equal protection under the law; vi. the right to equality in the family; vii. the right to the highest standard attainable of physical and mental health; viii. the right to just and favourable conditions of work. 	Art. 1 [*] GR 19 [†]	
Art. 2	<p>2.</p> <p>2.1 Does the State party have a constitutional or legislative guarantee of de facto or substantive equality between men and women, including by incorporation of an effective strategy aimed at overcoming underrepresentation of women and a redistribution of resources and power between men and women?</p>	GR 25(8)	
Art. 2	2.2 Does the State party's constitution embody the principles of substantive equality between men and women and non-discrimination, including with regard to all matters of personal status, family, marriage and inheritance law?	Art. 2 GR 33(42)(a)	
Art. 2	2.3 Do the laws of the State party contain appropriate legislation that incorporates the principles of equality and non-discrimination, if not codified in the constitution, with an overriding and enforceable status, including where the government is decentralised?	Art. 2(a) GR 28(31)	
Art. 2	2.4 Has the State party modified, abolished or repealed existing laws, regulations, customs or practices that directly or indirectly constitute discrimination against women?	Art. 2(f), (g)	
Art. 2	2.5 Has the State party ensured that rights guaranteed under CEDAW have precedence over inconsistent and discriminatory customary provisions?	CEDAW/C/60/D/48/2013	
Art. 2	2.6 Does the breadth of the State party's anti-discrimination provisions encompass direct and indirect discrimination against women?	GR 28(16)	

* Article number under CEDAW.

† CEDAW Committee's General Recommendations, with paragraph numbers in parentheses.

Art. 2	2.7	Has the State party recognized intersecting forms of discrimination against women (intersectionality), their compound negative impact on women concerned, and prohibited them? This includes discriminatory factors such as race, ethnicity, religion or belief, health status, disability, age, class, caste, sexual orientation and gender identity.	GR 25(12) GR 28(18)	
Art. 2	2.8	Does the State party's anti-discrimination legislation protect women against discrimination by public authorities and institutions, as well as private actors?	Art. 2(d), (e) GR 28(31)	
Art. 2	2.9	Can women invoke the principle of equality in support of complaints alleging acts of discrimination by public officials or private actors?	GR 28(33)	
Art. 2	2.10	Does the State party's legislation provide timely, appropriate and effective remedies for women who have been subject to discrimination? Remedies should include different forms of reparation, such as: i. monetary compensation ii. restitution iii. rehabilitation iv. reinstatement v. satisfaction, e.g., public apologies and guarantees of non-repetition. State party should ensure that non-judicial remedies are not used as substitutes for investigations and prosecutions of perpetrators. vi. changes in relevant laws and practices	Art. 2(b) GR 28(32) GR 33(18)(d); (19)(f)	
Art. 2	2.11	Has the State party taken comprehensive measures to address domestic violence, including marital rape? Comprehensive measures include legislation, criminal and civil law remedies, awareness-raising, education and training, shelters, counselling for victims of violence and work with perpetrators?	GR 19(24)(r)Case no. 5/2005 [‡] CO 2015, CEDAW/C/VCT/ CO/4-8 (47) [§]	
Art. 2	2.12	Does the State party obligate law enforcement officials to act with due diligence to prevent, investigate or respond to domestic and other forms of gender-based violence, and to provide adequate sanctions for the officials' failure to do so?	GR 19(9) Case no. 5/2005	
Art. 2	2.13	Does the State party provide women with recourse to affordable, accessible and timely remedies, and legal aid assistance where necessary, in the pursuit of justice for discrimination and domestic and other forms of gender-based violence?	GR 28(34) Case no. 5/2005	
Art. 2	2.14	Does the State party ensure that independent, safe, effective, accessible and child-sensitive complaint and reporting mechanisms are available to girls?	GR 33 (25)(b)	
Art. 2	2.15	Has the State party undertaken measures to ensure that migrant women victims of domestic violence have effective access to services related to protection against domestic violence and to justice, including interpretation or translation of documents?	CEDAW/C/53/D /31/2011	

[‡] CEDAW Optional Protocol jurisprudence.

[§] CEDAW Committee Concluding Observation.

Art. 2	2.16	Do women have access to a fair hearing by a competent and independent court or tribunal?	GR 28(34)	
Art. 2	2.17	Is there mandatory prosecution and imposition of penalties for domestic and other forms of violence against women that include the abuse of human rights such as right to life and physical integrity?	GR 19(24)(t) GR 28(34)	
Art. 2	2.18	Does the State party mandate vigilant and speedy prosecution of perpetrators of domestic violence, inherently recognizing that a woman's right to life and physical and mental integrity supersedes the rights of perpetrators?	Case no. 5/2005, at 12.3(b)	
Art. 2	2.19	Do domestic courts apply the law consistent with the State party's obligations under CEDAW?	CEDAW/C/52/D/32/2011	
Art. 2	2.20	When deciding custody and visitation, do domestic courts take into account instances of violence, ensuring that the rights and safety of the victim and children are not jeopardized?	CEDAW/C/52/D/32/2011	
Art. 2	2.21	Are protective orders available to women in situations of violence, regardless of marital status, that: <ul style="list-style-type: none"> i. ease the burden of proof in favour of the victim? ii. do not place undue administrative and legal burdens on the applicant? 	Case no. 2/2003 Case no. 20/2008	
Art. 2	2.22	Does the State party mandate gender-sensitive and gender-based violence training of judicial and law enforcement officers and other public officials, including on CEDAW and intersectional discrimination to ensure that officials are impartial and fair in cases of sexual offences and violence against women, and not affected by prejudices or stereotypical gender notions regarding the victim's gender, age or disability?	GR 19(24)(b) Case no. 5/2005 CEDAW/C/57/D/34/2011	
Art. 2	2.23	Does the State party promote enhanced coordination among law enforcement and judicial officers, ensuring that all levels of the criminal justice system routinely cooperate with NGOs that work to protect and support women victims of gender-based violence?	Case no. 5/2005	
Art. 2	2.24	Has the State party: <ul style="list-style-type: none"> i. Reviewed the definition of rape in the legislation so as to place the lack of consent at its centre? ii. Removed any requirement in the legislation that sexual assault be committed by force or violence, and any requirement of proof of penetration, and/or corroboration? iii. Minimized the secondary victimization of the complainant/survivor in proceedings by enacting a definition of sexual assault that either: <ul style="list-style-type: none"> a) Requires the existence of "unequivocal and voluntary agreement" and requiring proof by the accused of steps taken to ascertain whether the complainant/survivor was consenting, or b) Requires that the act take place in "coercive circumstances" and includes a broad range of coercive circumstances? 	Case no. 18/2008	

Art. 2	2.25	Has the State party reviewed the appropriate legislation and practice in order to guarantee the free and adequate assistance of interpreters, including in sign language, at all stages of the civil and criminal proceedings whenever necessary?	CEDAW/C/57/D/34/2011	
Art. 2	2.26	Has the State party implemented systems of collection, analysis and dissemination of data disaggregated by sex, age, disability, race, ethnicity, geographic location and socioeconomic background and used measurable indicators to assess trends in the situation of women and the progress achieved in the realization of substantive equality of women in all areas covered by the Convention?	CO 2015, CEDAW/C/VCT/CO/4-8 (47)	
Art. 2	2.27	Has the State party prioritized the strengthening of the national machinery for the advancement of women, and provided it with the authority, decision-making power and human and financial resources that are necessary to work effectively for the promotion of equality of women and the enjoyment of their human rights?	CO 2006, CEDAW/C/LCA/CO/6 (14)	
Art. 3	3. 3.1	Has the State party passed legislation that promotes the full development and advancement of women in the political, social, economic and cultural fields on an equal basis with men?	Art. 3	
Art. 4	4. 4.1	Has the State party adopted temporary special measures that aim to accelerate de facto (substantive) equality between men and women?	Art. 4(1) GR 25(12), (15)	
Art. 4	4.2	Are special measures exempt from categorization as discrimination, including measures protecting maternity?	Art. 4(2) GR 25(16)	
Art. 5	5. 5.1	Is there a provision in the Constitution, or otherwise codified in legislation, that gives precedence to the principle of equality if this principle conflicts with the State party's customary practices [based on the idea of the inferiority or superiority of either of the sexes, or on stereotyped roles for men and women] ?	Art. 5(a)	
Art. 5	5.2	Has the State party taken appropriate measures to ensure that family education includes an understanding of maternity as a social function, and codified the best interest of the child standard as the primary consideration in all cases?	Art. 5(b)	
Art. 6	6. 6.1	Has the State party criminalized the trafficking and the sexual exploitation of women?	GR 19(14)	
Art. 6	6.2	Do the laws of the State party prevent, prosecute and punish trafficking and related human rights violations in its jurisdiction, and provide for specific protective measures for women and girls, including for those internally displaced and refugees?	GR 30(41)	
Art. 6	6.3	Has the State party adopted a policy of zero tolerance on abuse, trafficking and sexual exploitation based on international human rights standards, including for national troops, peacekeeping forces and humanitarian actors, providing them with gender-sensitive training on how to identify and protect vulnerable women and girls?	GR 30(41)	

Art. 6	6.4	Has the State party adopted a comprehensive gender-sensitive and rights-based migration policy that ensures that women and girls coming from conflict areas are not subject to trafficking?	GR 30(41)	
Art. 6	6.5	Has the State party adopted bilateral or regional agreements to facilitate the prosecution of perpetrators trafficking in women?	GR 30(41)	
Art. 7	7.		Art. 7(a)	
	7.1	Do men and women have an equal right to vote?	GR 23	
Art. 7	7.2	Is there equal eligibility for men and women to political representation in all publicly elected bodies, and to participate in the formulation and implementation of policy?	Art. 7(a), (b) GR 23	
Art. 7	7.3	Has the government taken appropriate measures to advance equality and women's participation in political and public life at all levels, including in the judiciary and quasi-judicial systems? Appropriate measures include temporary special measures, and confronting and removing barriers to women's participation.	Art. 7 GR 23(15) GR 33(15)(f)	
Art. 7	7.4	Has the State party taken appropriate measures to create an environment of zero tolerance for violence, assault or harassment of women elected officials and candidates for public office? Appropriate measures include legislative and institutional reforms, investigations, and prosecutions.	Art. 7 UN GA Resolution 66/130** Quito Consensus (1)(x) ^{††}	
Art. 7	7.5	Do women have an equal right as men to participate in NGOs and other organizations concerned with the public and political life of the country?	Art. 7(c)	
Art. 8	8.		GR 23	
	8.1	Do women have equal opportunities as men to represent government at international level and participate in the work of international organisations?		
Art. 9	9.		Art. 9	
	9.1	Do women have equal rights as men to acquire, change or retain their nationality?	GR 21(6)	
Art. 9	9.2	Does marriage to an alien, change of spouse's nationality, or dissolution of marriage affect a woman's nationality? If marriage or the dissolution of marriage does not affect a woman's nationality, then there is compliance with this indicator.	Art. 9 GR 21(6)	
Art. 9	9.3	Do both parents have an equal right to determine the nationality of their children?	Art. 9 GR 21(6)	

** UN General Assembly Resolution (2011) on Women and Political Participation (66/130).

†† UN ECLAC, Quito Consensus (2007).

Art. 9	9.4	Do women have an equal right with men to confer nationality onto their foreign spouse?	CO 2015, CEDAW/C/VCT/CO/4-8 (27)	
Art. 10	10.		Art. 10(a), (b), (e)	
	10.1	Do women and girls have equal access to education, including access to the same curricula, examinations, teaching staff, vocational and career guidance, programmes of continuing education?		
Art. 10	10.2	Has the State party advanced the elimination of any stereotyped concept of the roles of men and women in all forms of education, in particular, by the revision of textbooks, school programmes, and teaching methods?	Art. 10(c)	
Art. 10	10.3	Does the State party guarantee the provision of the same opportunities to men and women to benefit from scholarships and other study grants?	Art. 10(d)	
Art. 10	10.4	Does the State party guarantee the provision of the same opportunities to men and women to participate actively in sports and physical education?	Art. 10(g)	
Art. 10	10.5	Does the State party provide on an equal basis access to educational information and advice on family planning?	Art. 10(h)	
Art. 10	10.6	If inequality in the field exists, has the government taken temporary special measures for the advancement of women's integration into education?	GRs 5 and 25	
Art. 10	10.7	Has the State party made efforts to diversify academic and vocational choices for girls and women and taken further measures to encourage them to choose non-traditional fields of education and careers, including by providing public scholarships and stipends?	CO 2012, CEDAW/C/JAM/CO/6-7 (26(c))	
Art. 10	10.8	Has the State party developed a comprehensive policy and plan of action to prevent dropouts of girls from schools and the reintegration of pregnant girls and young mothers into schools, including access to support services?	CO 2012, CEDAW/C/JAM/CO/6-7 (26(a))	
Art. 11	11.		Art. 11(1)(a), (b), (c)	
	11.1	Does legislation of the State party guarantee on an equal basis the right to work, free choice of profession and employment, the right to promotion, job security, and all benefits and conditions of service?		
Art. 11	11.2	Has the State party considered providing temporary special measures provisions in order to accelerate women's de facto equality in the field of employment?	GRs 5 and 25	
Art. 11	11.3	Does the legislation provide sexual harassment protection from employers and co-workers, including recourse against a hostile work environment?	GRs 12 and 19	
Art. 11	11.4	Does legislation of the State party guarantees equal remuneration for men and women, including benefits, for work of equal value?	Art. 11(1)(d)	

Art. 11	11.5	Does the legislation provide for equality in social security benefits, including paid leave, retirement, unemployment, sickness, invalidity, and any other incapacity?	Art. 11(1)(e)	
Art. 11	11.6	Does legislation of the State party provide women protection of health and safe working conditions during pregnancy, including in the types of work given to women during the term of the pregnancy?	Art. 11(1)(f); 11(2)(d)	
Art. 11	11.7	Does legislation of the State party provide women with paid maternity leave or with comparable social benefits?	Art. 11(2)(b)	
Art. 11	11.8	Does legislation of the State party guarantee women's protection from dismissal from employment because of pregnancy or maternity leave?	Art. 11(2)(a)	
Art. 11	11.9	Does the State party promote the establishment and development of childcare facilities?	Art. 11(2)(c)	
Art. 11	11.10	Does the State party provide the same legal rights and protections to women migrant workers that are afforded to all workers?	GR 26 (2009)	
Art. 11	11.11	Has the State promoted overall employment of women and expanded women's access to microcredit at low interest rates for self-employment and income-generating activities?	CO 2012, CEDAW/C/JAM/ CO/6-7	
Art. 12	12.		Art. 12(1)	
	12.1	Do women have equal access to healthcare services, including those related to family planning?		
Art. 12	12.2	Does the State party provide women with appropriate services in connection with pregnancy, confinement and the post-natal period, including adequate nutrition during pregnancy and lactation, granting free services where necessary?	Art. 12(2)	
Art. 12	12.3	Does the State party provide women with appropriate health services, including healthcare protocols and hospital procedures, and gender-sensitive training for healthcare workers, with regard to sexual abuse and violence against women?	GR 24(15)	
Art. 12	12.4	Does the State party ensure, without prejudice or discrimination, the right to sexual health information, education and services for all women and girls by properly trained personnel in specially designed programmes that respect their right to privacy and confidentiality?	GR 24(18)	
Art. 13	13.		Art. 13(a)	
	13.1	Do women have an equal right to family benefits, regardless of marital status?		
Art. 13	13.2	Do women have an equal right to receive bank loans, mortgages and financial credit?	Art. 13(b)	

Art. 13	13.3	Do women have an equal right to participate in recreational activities, sports and cultural life?	Art. 13(c)	
Art. 14	14.		Art. 14(1), (2)	
	14.1	Is there legislation or other measures taken by the State party that promote substantive equality for rural women, including participation in and benefit from rural development?		
Art. 14	14.2	Has the State party strengthened programmes to address gender-based violence, poverty and unemployment among rural women, in particular those in isolated communities and those that head households, and ensure that they have improved access to health care, social services and the justice system, with targeted programmes for women who suffer multiple discrimination owing to old age and disability, including through greater access to social safety nets?	Art. 14(2) CO 2015, CEDAW/C/VCT/C O/4-8 (41(a))	
Art. 14	14.3	Has the State party ensured that the development and implementation of policies and programmes on disaster preparedness, response to natural disasters and impacts of climate change, as well as other emergencies, are based on a comprehensive gender analysis and mainstream the concerns of women, especially those of rural women, and include them in the design and management of such programmes?	CO 2015, CEDAW/C/VCT/C O/4-8 (41(c))	
Art. 15	15.		Art. 15(1)	
	15.1	Does the State party's constitution accord women equality with men before the law?		
Art. 15	15.2	Do women have equal treatment before courts and tribunals at levels, including equal legal capacity in all criminal matters, and civil matters such as the right to conclude contracts administer property and bring litigation?	Art. 15(2) GR 21(8)	
Art. 15	15.3	Is there legislation that nullifies contracts and instruments that limit women's legal capacity?	Art. 15(3)	
Art. 15	15.4	Do women freedom of movement, including the right to obtain and hold a passport, and the right to choose their residence and domicile?	GR 21(9)	
Art. 15	15.5	Do migrant women living and working temporarily in the State have the same rights as men to have their spouses, partners and children join them?	GR 21(9)	
Art. 16	16.		Art. 16(1)(a), (b) GR 21	
	16.1	Does legislation of the State party guarantee women's entry into marriage on an equal basis as men, with choice of spouse and full and free consent?		
Art. 16	16.2	Does legislation of the State party afford women and men the same rights and responsibilities during marriage and at its dissolution?	Art. 16(1)(c)	

Art. 16	16.3	Does legislation of the State party afford women an equal right as men to choose a family name?	Art. 16(1)(g)	
Art. 16	16.4	Does legislation of the State party afford both spouses equal treatment in the ownership, acquisition, management, administration, enjoyment and disposition of property, [including with the disposition of marital property after the death of a spouse]?	Art. 16(1)(h)	
Art. 16	16.5	Does the State party's legislation makes provision for no-fault divorce, or separated the grounds for divorce with the financial consequences of the separation?	GR 29(40)	
Art. 16	16.6	Does the legislation of the State party provide for an equal division of marital property including the equal treatment of financial and non-financial contributions during the marriage?	GR 31(22)	
Art. 16	16.7	Is custody determinations and access to children under the State party's legislation based on best interests of child standard regardless of the relationship of the parents?	Art. 16(1)(d)	
Art. 16	16.8	Does the State party's legislation afford protections and privileges for de facto relationships on the same basis as legal unions, including protecting the property rights of women upon the termination of de facto unions and giving them the right to financial support in case of need?	Art. 16(1)(c) GR 21(18) GR 29	
Art. 16	16.9	Does the State party guarantee on a basis of equality of men and women, the same rights and responsibilities as parents, irrespective of their marital status, including in the care, protection, support and maintenance of their children?	Art. 16(1)(d) GR 21(19)	
Art. 16	16.10	Does the State party guarantee on a basis of equality of men and women, the same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption?	Art. 16(1)(f)	
Art. 16	16.11	Does legislation of the State party provide equal treatment of men and women with regard to inheritance?	Art. 16(1)(h) GR 21(34)	
Art. 16	16.12	Has the State party provided women and girls with equal administration and inheritance rights upon the dissolution of marriage by death, irrespective of their ethnicity or origin, including by repealing or amending any discriminatory customary laws?	GR 29(15) CEDAW/C/60/D/48/2013	
Art. 16	16.13	Is there a legislative prohibition on child marriage?	Art. 16(2)	
Art. 16	16.14	Does the State party's legislation set the minimum age for marriage at 18 for both men and women?	Art. 16(2) GR 21(36)	
Art. 16	16.15	Is there a legislative requirement for the registration of a marriage in an official registry?	Art. 16(2)	

