

The CEDAW Compliance Framework

IWRAW Asia Pacific's Experience in Six Countries



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INTRODUCTION

Even after 30 years of the CEDAW Convention, gender equality remains a challenge for women across the regions. To date, CEDAW has an almost universal ratification status, with 188 countries being party to this treaty as of April 2014. Unfortunately, the implementation of CEDAW in many countries is still inadequate and leaves much to be desired.



The reporting process under the Convention mandates the States Parties to present a full and extensive account to the CEDAW Committee of the status of women and especially recognition of their right to equality and non-discrimination including the access, exercise and protection of these rights in relation to public as well as private spheres of life.

The States Parties are expected to provide information to the Committee on existing social, cultural and/or religious practices and norms that encourage gender stereotyping of women's role and spaces they occupy in society, and specific measures undertaken to overcome these limitations and promote substantive equality for women at par with men.

Usually the reporting process under CEDAW is aimed to engage with the State in a constructive dialogue on its obligations under the Convention to respect, fulfil and protect women's human rights, and encourage the institutions and structures involved towards implementation of the Convention to work in collaboration with civil society organisations and women's rights groups. The recommendation or the Concluding Observations of CEDAW Committee to the States Parties are often considered as a basis for national level policy and law reform process leading to a more sustained social change for women to access and exercise their universal and equal human rights.

IWRAW Asia Pacific through its work on using CEDAW in diverse contexts of women's human rights has developed various tools and frameworks. For more than 20 years, IWRAW Asia Pacific has worked to strengthen national level groups and organisations especially in their ability to influence policy making and law reform processes. One of these tools is the CEDAW Compliance Framework developed in 2007 at the Updating of Concepts Meeting.

This framework aims to enable a structured understanding of how the Convention, its principles and provisions can be the basis for laws, policies and programmes to ensure not only formal or *de jure* equality to women but implementation of these results in substantive *de facto* equality, eliminating both direct and indirect discrimination experienced by women in public and private spheres.

The Framework itself is in four major parts. The first part deals with the guiding principles, including human rights standards and norms from CEDAW and the international human rights system in general. The second part is the application of CEDAW itself, which is divided into a problem analysis, framing a problem statement, the object and purpose of the law, policy or programme, and the content of the law, policy or programme. The third part relates to implementation, and the fourth part, which is critical to any intervention, relates to monitoring and accountability.

Understanding the Guiding Principles: human rights standards and norms from CEDAW and the international human rights system in general, underpin the framework

Applying the Guiding Principles to ensure CEDAW Compliance:
(Law reform, policy formulation, programme design)

Implementation Stage: Mobilisation of support

Monitoring and Accountability

The primary users of the CEDAW Compliance Framework are States Parties to CEDAW – governments and legislatures in particular. However, from the experiences of women’s groups it is obvious that States Parties often lack the willingness, motivation or capacity to fulfil their human rights obligations. Hence, women’s human rights organisations have to proactively promote the use and application of the Framework by their governments in policy making and law reform processes, thereby facilitating the implementation of human rights principles and standards, and especially promoting gender equality and social justice.

The emphasis in the Concluding Observations of the CEDAW Committee has always been on States Parties enacting and formulating laws and policies to eliminate gender discrimination and facilitating substantive equality for women. Often State Parties have fallen short of fulfilment of their obligations in this regard for lack of understanding of CEDAW and inadequacy of skills to translate the principles into the actual text of laws, policies and programmes aimed towards gender equality and empowerment of women.

The pressure built from outside by activists and policy advocacy groups to integrate principles of substantive equality, non-discrimination and State obligation when a specific law or policy is being enacted does not always result in long term and sustainable change in the institutional framework on law and policy making. It is therefore critical that, NGOs as well as the government and its agencies, are simultaneously engaged with during capacity building in order to enhance a CEDAW compliant law and policy making process.

IWRAW Asia Pacific’s CEDAW Compliance Framework Project (CCF Project) helps address the inadequacies experienced by women’s rights groups as well as the government; in particular the relevant ministry and the legislative organ of the State. Initially called the CEDAW Application Framework, it was renamed as the CEDAW Compliance Framework in 2012 to better reflect the objectives of this tool.

The CCF Project was developed following the 2009 ‘Updating of Concepts’ meeting organised by IWRAW Asia Pacific with its resource persons and key national partners from the Asia Pacific region. At this meeting IWRAW Asia Pacific put forward the idea of using the CEDAW Compliance

Framework developed in 2007 into practice through a long term project undertaken at the national level in collaboration with its partners. The brainstorming and recommendations encouraged IWRAW Asia Pacific to outline a project design that could be implemented in specific national and thematic contexts.



All people on Planet Earth are born equal and free. Therefore everyone, including women must be able to enjoy all human rights at all times. National and international laws need to guarantee gender equality and social justice. And CEDAW compliance by all States Parties is so essential if all forms of discrimination against women have to be eliminated as of Now !



◆ **Bangladesh (2010-2015)**

Subsequent to the 2009 meeting, the pilot implementation was conducted in Bangladesh with the collaboration of **Naripokkho**, a long-time partner of IWRAP Asia Pacific. The CCF Project was implemented in 2010 and focused on 'national legislation on violence against women and children' and 'draft national agriculture policy' (with **UBINIG**'s expertise).



◆ **Timor Leste (2011-2015)**

IWRAP Asia Pacific worked with **Rede Feto**, the umbrella organisation for women's groups in Timor Leste and **Alola Foundation**. They chose to work on the issue of uninterrupted education for girls. Dropping out of school by girls due to early pregnancy is a big problem in Timor Leste. The informally named 're-entry policy' is a government initiative to encourage young girls to return to school to complete their education.



◆ Vietnam (2011-2015)

GENCOMNET, one of the most respected women's networks in Vietnam was the partner in Vietnam. The group decided to focus on two issues; namely the 'gender discriminatory retirement age policy' and the 'land title law' which made it difficult to list the names of women as co-owners.

◆ Cambodia (2013-2015)



From 2013, IWRAP Asia Pacific worked with **NGO-CEDAW**, the main organisation working on CEDAW in Cambodia. 'Domestic violence legislation' was the area of focus for the groups here.

◆ Lao PDR (2013-2015)

IWRAP Asia Pacific collaborated with the **Faculty of Law and Political Sciences, National University of Lao PDR**. The area of focus was on the 'education policies' to encourage higher education among women, especially women from rural areas.

◆ Thailand (2013-2015)

Foundation for Women (FFW) and **Pro-Rights Foundation** were the partners for the CCF project in Thailand. NGOs and activists decided to focus on the 'domestic violence legislation'.

◆ Objectives:

- ▶ Increased capacity and use of CEDAW framework by law makers and administrators for CEDAW compliant enactment of law and formulation of policies
- ▶ Enhanced knowledge and skills of women's groups/organisations and networks on using CEDAW Compliance Framework for critically reviewing laws and policies to advance women's human rights and gender equality

◆ Immediate Outputs:

Capacity building on CEDAW and CEDAW Compliance Framework

Development of evidence based national advocacy strategies towards CEDAW implementation

● Mid-term/Long term Outputs:

Draft or proposals on CEDAW compliant laws and policies on specific issues

Amendment to the law and/or policy to incorporate a CEDAW Compliance framework

Refinement of the CEDAW Compliance Framework based on the experiences and lessons learnt in different countries

● Expected Outcome of the CCF Project:

Enhanced engagement and participation of national women's human rights organisations and networks towards evidence based national level CEDAW compliant legislative/ policy advocacy as well as international advocacy

◆ Post 2015

In 2015, IRAW Asia Pacific and the partner organisations held a review of this project. All partners were of the opinion that the output relating to building their capacity in using CEDAW in law and policy analysis was met. They were quite confident in using the CCF framework for future work. Many of these groups were also confident in engaging actively in advocacy work both at the national and international levels.

- **What is law and policy analysis?**

- It just means evaluating any particular law or policy using a specific framework or methodology. For example, if we are analysing a law on Domestic Violence to see if addresses gender discrimination effectively, then we use the standards in CEDAW to make this decision.

- **Why must we do this?**

- Laws and policies have a huge role in our lives. Sometimes, laws and policies can have an adverse effect on our lives. For example, if the Domestic Violence law does not include physiological or emotional abuse as part of violence, many survivors will never be able to get justice.

- **Will this solve our problems?**

- While it may not solve our problem immediately, in the long run laws and policies that are based on international human rights standards will help ensure that all of us enjoy our human rights.

- **What is a framework?**

- Just imagine taking a photo where you first 'frame' the subject and then you snap the photograph. This 'framing' ensures that you have a clear photo. This is the same as using a framework when analysing any problems or developing recommendations.

- **Why use this CCF framework? Is this the only framework that we can use to ensure women's rights?**

- The CCF framework is one of many tools that you can use. But bear in mind that the CCF tool was developed by women activists who work on issues related to women's human rights for many years. Their experiences helped them design a framework that would be useful for all women.

- **How should we start?**

- The first step is for activists to be clear on why you are interested law and policy analysis. Next, you must get a group of people interested in doing this as well. With commitment and passion, questions on resources (both financial and human) can also be solved.



- **What do we hope to achieve? In most cases the government is too stubborn to change!**
 - ➔ Most governments do not change their laws and policies easily unless there is enough pressure from people. This framework helps activists to create a strong force by building the capacity of everyone, regardless of whether they have a law degree to do policy analysis and advocate for legal reform.

- **Men will not like women questioning the laws and policies of the country –how can we explain the benefits of the CCF to them?**
 - ➔ First we will need to be able to explain why any gender discriminatory law or policy is detrimental to a large section of society. A bad law or policy impacts poor, migrant, minority women the most. Therefore, an intersectional approach helps us understand this connection between women and marginalised men. Generally, people change their minds when they understand how laws and policies can negatively impact their lives.

- **Who should be using this framework?**
 - ➔ Anyone interested in law and policy analysis – activists, students, law makers, people from the media and so on.

- **How long does it take to change a law or even a policy?**
 - ➔ Again this is country-specific. But laws and policies can change for the better when people demand for that to happen.

- **Do I need to have a legal background or be highly educated?**
 - ➔ Not really. Having a legal background helps but it is not an absolute necessity. Never forget that lawyers are just people who went to school to learn law - anyone can analyse and critique a law, especially since laws and policies impact all of us.

Chapter

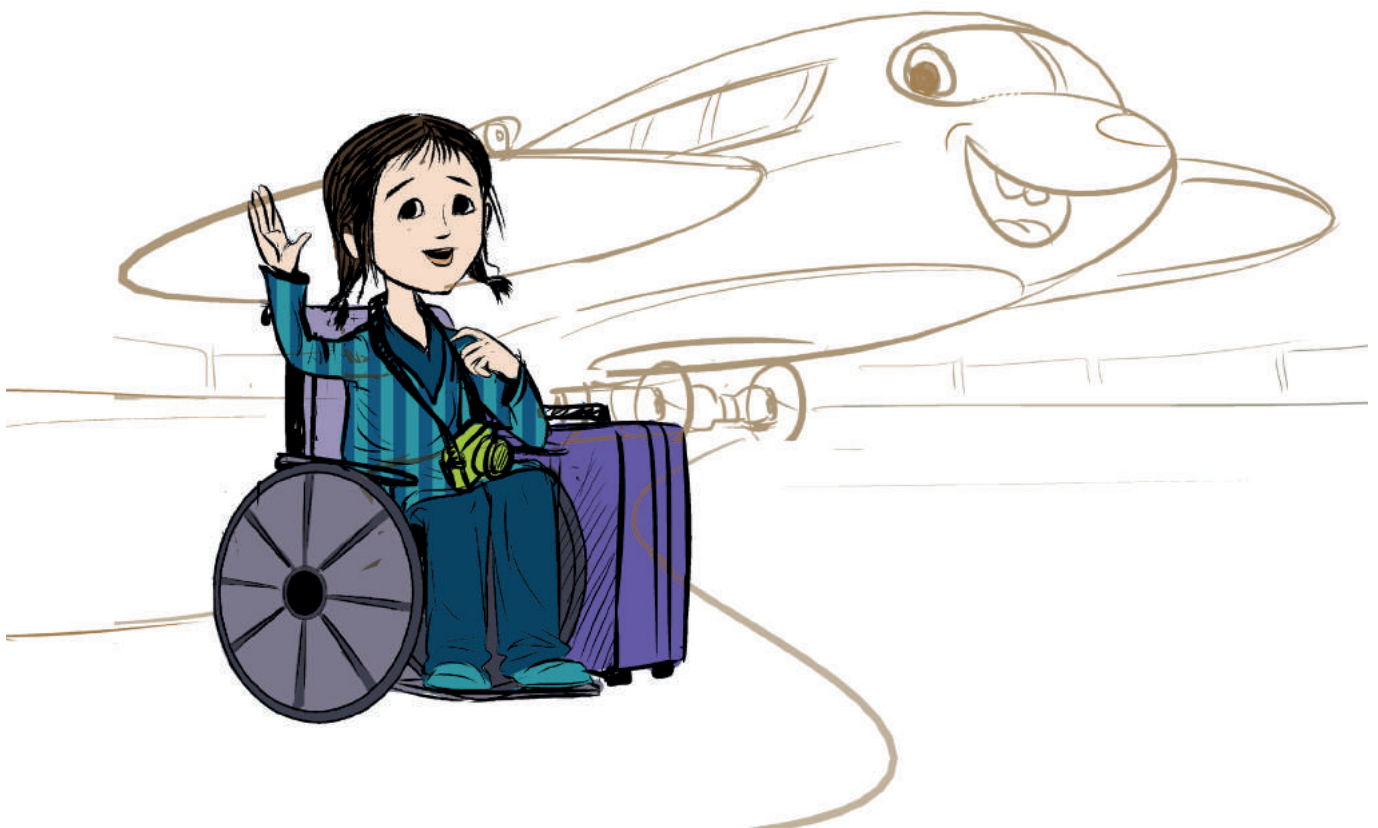
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CEDAW AND
THE CEDAW COMPLIANCE
FRAMEWORK (CCF)

- **Q: Could we just revise what the CEDAW is, so that everyone is on the same page?**
 - The full title of the CEDAW is - The Convention on the Elimination of All Forms of Discrimination against Women. The UN General Assembly adopted the Convention in December 1979. It came into force as a treaty in December 1981, after the 20th member State ratified it. To date 189 out of 196 countries of the world have ratified CEDAW. United States and Palau have signed the convention, but not ratified the treaty. The Holy See, Iran, Somalia, Sudan and Tonga are not signatories to CEDAW as yet.
- **Q: What is the difference between signing and ratifying CEDAW?**
 - Signing CEDAW indicates that a State Party has the intention to accept CEDAW in part or whole. Ratifying means that the State Party is legally bound to enforce the terms of CEDAW. It becomes mandatory on that State Party to make its domestic laws and policies compliant with the spirit and letter of the convention.
- **Q: Could we quickly visit the details of how CEDAW is structured, its Articles and what they say?**
 - The CEDAW consists of 30 articles which are structured in the following six parts:
 - Part I (Articles 1-6)** focuses on defining discrimination, approaches to gender equality and the State's obligation towards non-discrimination and gender equality. Articles 5 and 6 deal with sex stereotypes, and trafficking of women, respectively.
 - Part II (Articles 7-9)** outlines women's rights in the public sphere with an emphasis on political life, representation at the national and international levels, and rights to nationality.
 - Part III (Articles 10-14)** highlights the economic and social rights of women, especially those related to education, employment and health. Article 14 focuses on the special needs and rights of rural women.
 - Part IV (Article 15 and 16)** deals with women's right to equality in marriage and family life, along with the right to equality before the law.
 - Part V (Articles 17-22)** establishes the Committee on the Elimination of Discrimination against Women, as well as the reporting procedure of States Parties.
 - Part VI (Articles 23-30)** describes the effects of CEDAW on other treaties, the commitment of the States Parties to comply with CEDAW, and the administration of the Convention.

The articles of CEDAW, in short, are as follows:

- Article 1:** Definition of Discrimination
- Article 2:** Policy Measures to be Undertaken to Eliminate Discrimination
- Article 3:** Guarantees basic Human Rights and Fundamental Freedoms on an Equal Basis with Men
- Article 4:** Temporary Special Measures to achieve Gender Equality
- Article 5:** Sex Roles and Stereotyping
- Article 6:** Trafficking and Prostitution
- **Article 7:** Political and Public Life
- **Article 8:** Participation at the International Level
- **Article 9:** Nationality
- **Article 10:** Equal Rights in Education
- **Article 11:** Employment
- **Article 12:** Healthcare and Family Planning
- **Article 13:** Economic and Social Benefits
- **Article 14:** Rural Women
- **Article 15:** Equality before the Law
- **Article 16:** Marriage and Family Law
- **Articles 17-22:** Detailing the Establishment and Function of the Committee on the Elimination of Discrimination against Women (CEDAW)
- **Articles 23-30:** The Administration of CEDAW



● Q: What is a General Recommendation?

- It is the treaty body's interpretation of the content of human rights provisions on thematic issues or its methods of work. It often seeks to clarify the reporting duties of States parties with respect to certain provisions and suggests approaches to implementing treaty provisions.

<http://www2.ohchr.org/english/bodies/treaty/glossary.htm>

[Human Rights Treaty Bodies:

Glossary of Treaty Body Terminology]

● Q: What is a Concluding Observation?

- The observations and recommendations issued by a treaty body after consideration of a State Party's report, namely the Concluding Observations refer both to positive aspects of a State's implementation of the treaty and areas where the treaty body recommends that further action needs to be taken by the State. The treaty bodies are committed to issuing Concluding Observations which are concrete, focused and implementable and pay increasing attention to measures to ensure effective follow-up to their Concluding Observations.

CEDAW engages with the State to be responsible for women's rights by placing an obligation on the State to challenge stereotypes and entrenched social and cultural values and practices that deny women the exercise of their rights. CEDAW demands that the State be responsible for the practical realisation of rights; insisting that the gap between law, policy and practice must be closed. The Convention addresses not only individual violations but also the weaknesses in the system and institutions and demands that equality must be achieved in the public and private spheres.

CEDAW provides an enlightened definition of discrimination and establishes that discrimination in all its forms will have to be eliminated in order to bring about equality between women and men. Besides providing a comprehensive Bill of Rights for women – all rights in all fields and establishing the inter-relatedness of civil, political and socio-economic rights, it also provides a philosophical base for women's rights: substantive equality and non-discrimination.

The three core principles of CEDAW are: Non Discrimination, Substantive Equality and State Obligation.

● Non Discrimination

Article 1 of CEDAW states that: Any distinction, exclusion or restriction made on the basis of sex which has “the intention or effect” of “nullifying or impairing” the “recognition, enjoyment and exercise” by women of all rights in the social, cultural, political and economic spheres is discrimination.

CEDAW firmly establishes that inequality is socially constructed; thus there must be proactive measures to bring about equality and for discrimination to be actively eliminated. Discrimination may be direct or indirect; intended or unintended; and it may be current, crosscutting or historic, meaning that women may be suffering from the effect of past discriminations . Therefore under the Convention, discrimination will occur when an apparently neutral condition or requirement (that has a discriminatory effect on women) is imposed, although discrimination was not intended.

In order to eliminate discrimination, it is critical to bridge the gap between ***de jure*** and ***de facto*** rights, ensuring access to and benefit from opportunity. For this to happen, it is essential to monitor and guarantee:

- Equality of opportunity (through Law, Policy, Programmes)
- Equality of access
- Equality of benefits
- Equality of results



● Substantive equality

Women and men are different, but while some of the differences are biological, most differences are socially constructed in a way that women are disadvantaged. Women deserve to exercise their rights just as men do, but because of social and biological differences they may need to be treated differently (eg maternity benefits or reservation in politics) if they are to benefit equally

Many **Approaches to Equality** are postulated and practiced by governments and communities. Some of them may intentionally or unintentionally perpetuate discrimination because they fail to recognise gender stereotyping that happens since early childhood, and may not take into account the historical discrimination women have faced.

The **'Equivalence Approach'** propagates the ideology that men and women are not similar, so they cannot ask for (or deserve) equal rights. This approach believes that people do not need 'equal' rights, they need 'equivalence' in rights, based on the roles and responsibilities they perform at home and in society. Thus, women's lesser wages can be justified in this approach, because socially men are expected to do the earning for the family. This attitude results in further discrimination.

The **'Formal or Sameness Approach'** does not recognise the social difference between men and women and draws on male standards, adopting equal treatment rather than equal outcomes. It is based on neutral laws that treat women and men the same, and therefore sets conditions suited to male standards for accessing rights. In result, it disadvantages women since women and men are not the same in terms of needs or rights.

The **'Protectionist Approach'** recognises difference but denies equal opportunity and rights. It has long-term adverse consequences for women because it is based on assumptions that perceive women as weak, subordinate and in need of protection. Because it reinforces male and female stereotypes, it does not lead to social transformation based on gender equality.

The 'Corrective Approach' recognises difference but at the same time it affirms equality between women and men. It seeks to adopt different ways to dismantle the differences, placing obligation on State and non-State actors to correct the environment that disadvantages women. This approach has the potential to eliminate historical and current discrimination, and to move towards a society based on gender equality.

Article 4 of the CEDAW supports this last model by justifying affirmative action so that women would have access to the opportunities created through law and policy. It emphasises the fact that by ratifying or acceding to CEDAW, the State has accepted an obligation to ensure that women will be able to enjoy all rights, and the State is also obligated to regulate all agencies, including the private sector, to make sure this happens.

Article 2 of CEDAW places an obligation on the State to ensure the "practical realisation of rights" for women, since it is not enough to create equal opportunity through law and policy alone.

Article 3 requires States Parties to provide enabling conditions by introducing **Temporary Special Measures**. In order to achieve substantive equality and to remove discrimination, States Parties are allowed to introduce temporary special provisions for the acceleration of women's equality, to enable preferential treatment in order to eliminate historical discrimination and facilitate access to opportunities in order bring about **de facto** equality.

● State Obligation

In order to guarantee the human rights of all people under its jurisdiction, the State is expected to respect, protect and fulfil all human rights. According to Articles 2(d) and 2(f) of CEDAW, the State must respect the rights of women, meaning that the State or its agents cannot do anything that violates women's rights. Article 2(b), 2(c) and 2(e) add that the State is obligated to protect the rights of women by ensuring that private (non-State) actors including institutions, private enterprises or individuals do not violate women's rights. This includes removing impediments to women's equality based on negative cultural and traditional attitudes and practices (Article 5). Very importantly, the State must also fulfil rights of women. It must take positive steps and provide enabling conditions and build women's capacity [Articles 2(a), 3, 4 and 5]. This requires States to adopt appropriate legislative, administrative, budgetary, judicial, promotional and other measures towards full realisation of rights. Further, Article 27 states that "A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty."

CEDAW also places some specific State obligations. Article 2 obligates the State to prohibit discrimination, enact a policy of non-discrimination, set up effective mechanisms through which women can obtain redress if their rights are violated, repeal all discriminatory laws and policies and abolish discriminatory customs and practices. Article 3 obligates the State to promote equality through all appropriate means: this includes proactive measures and enabling conditions that are needed to ensure the full development and advancement of women. Further, Article 4 obligates the State to put in place affirmative action to accelerate *de facto* equality

In Summary, CEDAW expects immediate State obligation in order to prevent and prohibit

discrimination, to identify and redress violations, impose sanctions against discriminating acts, promote women's rights and equality through proactive measures and accelerate equality. Enabling conditions have to be created for people to access and enjoy their rights, and all impediments in people's access and enjoyment of rights must be immediately removed. The obligation of means, conduct and of result (equality of opportunity, access to that opportunity and of result) is also contingent upon provision of maximum available resources in accordance with progressive achievement of rights, and adhering to international obligations towards human rights. The State must prove that it was unable, rather than unwilling to safeguard the rights of its people; further, inability quoted on the basis of inadequate resources cannot be forever. The State is answerable for its acts of commission as well as its acts of omission with respect to human rights.

de facto

Elements of Substantive Equality in CEDAW

● Goals

The full realisation of women's human rights

Equality in opportunity and equality in law, as well as equality in results (**de facto** equality)

● Means

Address discrimination in public and private sphere – multiple Articles

Address historical discrimination [Article 4 (1)]

Address unintentional and direct discrimination (Article 1)

Address discriminatory customary and other practices [Articles 2(f) and 5]

Address stereotype roles of women and men [Preamble para 12 and 13, [Articles 5(a) and 5(b)]

Address needs of women on the basis of their biological function of maternity [Articles 11(f) and 12]

Uses holistic / comprehensive approach (in the public as well as private spheres)

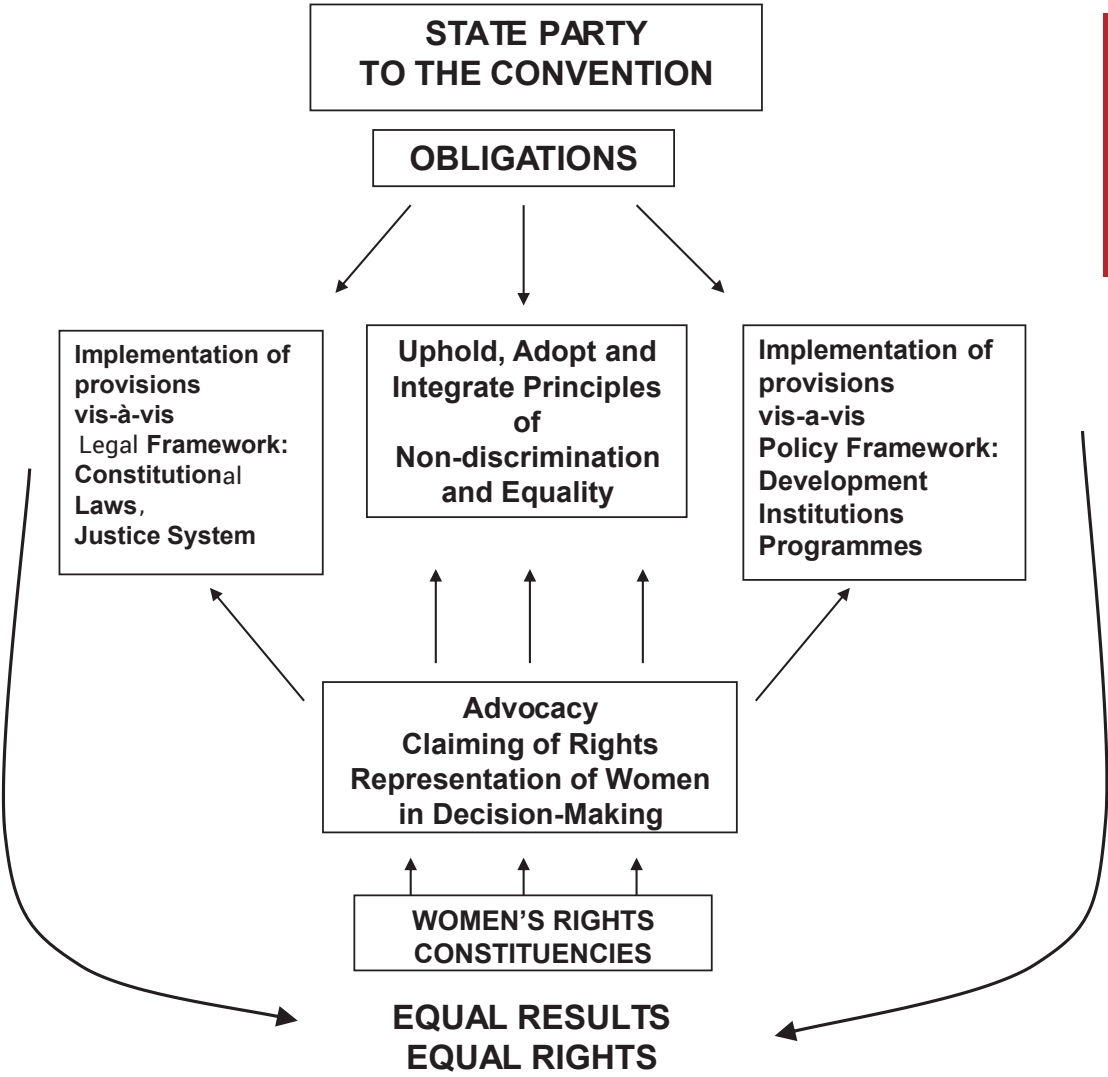
● How:

through laws and other measures (Article 2)

through temporary special measures (Article 4)

through provision of enabling conditions (Article 3)

Framework of the Convention



Ever since IRAW Asia Pacific began capacity building on CEDAW in countries from the Asia Pacific region in the late 1990s, many individuals and organisations gained a theoretical understanding of CEDAW and human rights. Their struggle and challenge to apply the Convention laws, policies and programmes resulted in a collective articulation for the need of a succinct and practical 'application' framework. IRAW Asia Pacific responded by developing a framework that was comprehensive, organised and a systematic tool – something that women's groups could use nationally to ensure application of CEDAW to domestic laws, policies and programmes. Such a framework was developed collectively by IRAW Asia Pacific's pool of resource persons in 2007 in response to needs articulated by NGOs. It was further discussed by resource persons in 2009. It was ready to be tested thereafter; thus a pilot project was initiated in Bangladesh. Thereafter it was systematically tried out in other countries, whose experiences are documented in Chapter 2.

What is the CEDAW Compliance Framework (CCF)?

It is a practical tool : The CCF does not teach or add to substantive information on specific issues, but is a framework which can be used by national level groups to advocate and lobby for a gender just law, policy or programme. Thus, prior knowledge of the human rights framework and women's rights, and of CEDAW are essential before applying them to any law, policy or programme.

It can be applied for specific purposes such as reviewing/analysing a specific law, policy or programme (including proposing amendments) or proposing a specific law, policy or programme. It is not a generic tool that can be indiscriminately used for a group of laws, policies or programmes simultaneously. Each CCF intervention would require independent research and analysis because of the specificity of each law, policy and programme.

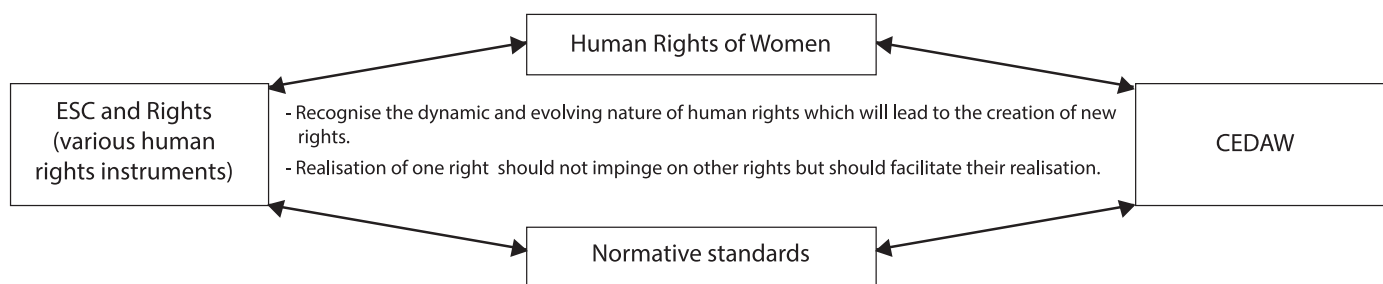
It is broad and general enough to be adapted in many different contexts, and can be applied to various laws, policies or programmes that are gender-discriminatory. Each application will need specific inputs and interventions, as mentioned above.

It is meant for long term projects because changes in law, policy and programmes are a lengthy process involving research, lobbying, networking and capacity building of stakeholders.

It can be used by NGOs as well as governments who are committed to making domestic laws, policies and programmes compliant to CEDAW's core principles of non discrimination, substantive equality and State obligation to bring about **de jure** as well as **de facto** gender equality.

Advancing the Human Rights of Women: A Framework for CEDAW Compliance

1. Guiding Principles: Drawn from Text of CEDAW and Other Human Rights Conventions, General Recommendations, Concluding comments, Evolving Jurisprudence



<ul style="list-style-type: none"> • Universality and Indivisibility of Rights • Equality before the law and equality under the law • Inherent and inalienable • Full realisation of all rights as rights are interdependent and inter-related (non-hierarchical) • Principles of non-regression/non-derogation • Progressive realisation linked to principles of non-regression/non-derogation (mobilise resources, set targets, set time frames to show progress, in good faith) • Minimum core obligatority • Due diligence • State as duty holders, citizens and persons as rights bearers (individual and group rights), intersectionality of human rights • Ability of people to exercise rights and enjoy rights - de jure and de facto • Mechanisms for accountability • Mobilisation of people as rights holders 	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="border-right: 1px solid black; padding-right: 10px;"> Non-discrimination Substantive Equality </td> <td style="font-size: 2em; padding: 0 10px;">}</td> <td style="padding-left: 10px;"> General Interpretative Framework (Articles 1, 2, 3, 4, 5, 23, 24 with specific articles and relevant General Recommendations) </td> </tr> <tr> <td colspan="3" style="padding-top: 10px;"> <ul style="list-style-type: none"> • Elimination of Discrimination: direct/indirect, in law and in practice, in both private and public spheres, etc. <ul style="list-style-type: none"> • Prohibition of discrimination on the basis of sex • Elimination of discriminatory ideological factors justified by cultural, social norms, religious interpretation etc. • Temporary special measures <ul style="list-style-type: none"> ○ 4(1)- historical/structural/current discrimination and multiple discrimination based on discriminatory notions of gender ○ General Recommendation 25 • Measures that enable the fulfilment of special needs of women - biological needs (4(2), fb and preamble) • Towards promoting substantive equality (access, opportunity, results) de jure, de facto • (Art 3) Full Development/advancement of women • Women as rights holders </td> </tr> </table>	Non-discrimination Substantive Equality	}	General Interpretative Framework (Articles 1, 2, 3, 4, 5, 23, 24 with specific articles and relevant General Recommendations)	<ul style="list-style-type: none"> • Elimination of Discrimination: direct/indirect, in law and in practice, in both private and public spheres, etc. <ul style="list-style-type: none"> • Prohibition of discrimination on the basis of sex • Elimination of discriminatory ideological factors justified by cultural, social norms, religious interpretation etc. • Temporary special measures <ul style="list-style-type: none"> ○ 4(1)- historical/structural/current discrimination and multiple discrimination based on discriminatory notions of gender ○ General Recommendation 25 • Measures that enable the fulfilment of special needs of women - biological needs (4(2), fb and preamble) • Towards promoting substantive equality (access, opportunity, results) de jure, de facto • (Art 3) Full Development/advancement of women • Women as rights holders 		
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The CEDAW Compliance Framework relies on :

● Guiding Principles

These principles are drawn from the text of CEDAW and other human rights conventions, general recommendations, concluding comments / observations and general jurisprudence. National constitutional frameworks that advocate for human rights are also included in these guiding principles which help connect CEDAW with economic, social, cultural, civil and political rights, and with normative human rights standards. For that reason, the guiding principles need to inform every step of the process.

● Problem Analysis

We first need to understand the nature and multiple sites of discrimination and inequality, such as who is being discriminated against, who the actors are, what the nature of discrimination is, which rights have been violated and what the causes and effects of the discriminations are. We also need to determine the extent and magnitude of discrimination with an 'evidence base' because policy makers need 'numbers' even when human rights are being violated ! Identifying the

factors that contribute to the State's non-fulfilment of its obligations, including lack of political will, lack of awareness, understanding or capacity and unavailability of resources is also essential.

An examination of the direct and indirect factors or determinants of discrimination helps us incorporate an analysis of gender construction - the ideology, how masculinity and femininity operate within power relations, and also to identify discrimination based on sexual orientation, gender identity, physical and mental ability, marital status or livelihood options. A political economy lens which analyses the global and national forces of neo-liberal globalisation, fundamentalisms and militarisation and increasing assault on people's human rights helps in setting the geo-political context and understanding the impact of global events on the daily lives of people on the ground.

It is equally important to remember that women are not mere passive victims, but are constantly engaging with systems of domination in multiple ways. Identifying women's agency and the associated risk analysis needs to go hand in hand with identifying possible forms and sources of resistance that women utilise on a daily basis.

● **Problem Statement**

This is a brief statement providing an overview of the specific problem that is being addressed through the specific law, policy or programme we are working with. The problem statement is narrower and more focused than the problem analysis, yet it is broader than the object and purpose of the law, policy or programme (see below). It takes into account data and evidence from the problem analysis. It should be noted that a single problem analysis could result in multiple problem statements and can be used for multiple laws, policies or programmes.

● **Object and Purpose of the Law, Policy or Programme**

This is a very short, succinct statement stating what the particular law, policy or programme is meant to achieve in the short and long term. So we need to be clear about what we want to achieve directly from the particular law, policy or programme that is being looked at through the CCF lens. Expected long term goals and direct outcomes must be worked out here. These will depend on whether we are drafting or proposing a new law, programme or policy, or whether we are reviewing or analysing an existing one. Elimination of historical as well as current forms of discrimination must be our ultimate goal.

● **Content of Law, Policy or Programme**

The section on content must spell out explicit provisions for substantive equality and non-discrimination and to prohibit direct and indirect discrimination by State or non-State actors. It must outline measures to address special needs of women (biological as well as social) and the temporary special measures that need to be put in place to address the causes and consequences of historical multiple discrimination. It should mention the enabling measures to ensure that women benefit equally. Disadvantages and needs arising from multiple layers of discrimination (intersectionality issues), measures to create an enabling environment to counter sexism and gender stereotyping, measures to promote and strengthen a political environment that upholds

human rights and measures to prevent and minimise adverse effects of neo-liberal economic policies are essential components of the ‘content’ section.

The content should clearly spell out how the responsibility of implementation of the law, policy or programme will be located across departments, agencies and ministries and how regulation of private (non-State) actors would happen. Mobilisation and capacity building of women, especially the most discriminated sections as rights holders are essential to ensure a participatory and collective decision-making process, involving different stakeholders. It is also essential so as to guard against the instrumentalist motive behind ‘pro-women’ proposals or measures that are often driven by patriarchal values and notions.

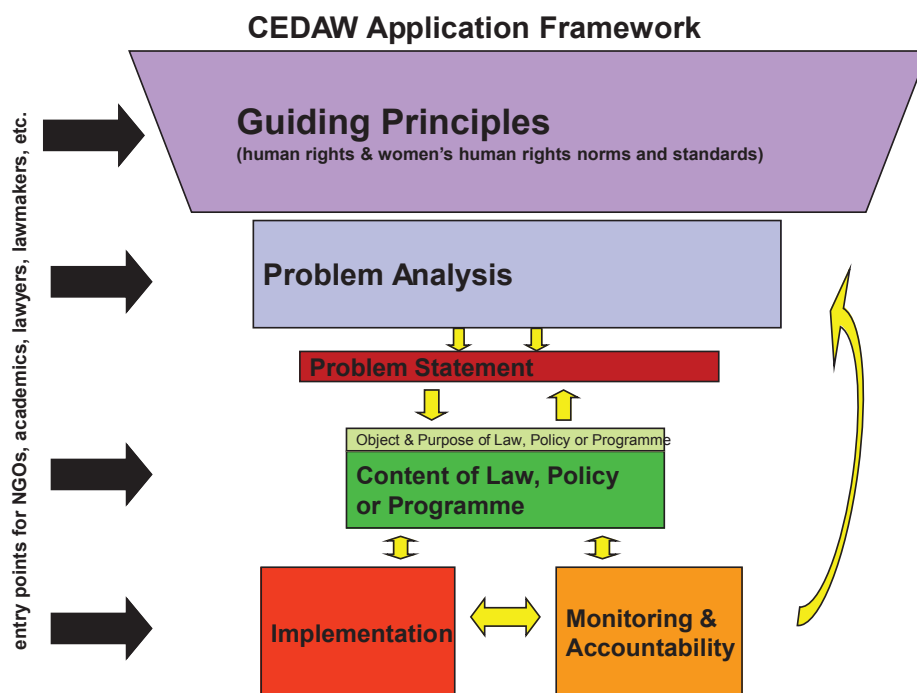
● Implementation

No law, policy or programme has real meaning or effectiveness unless it is implemented in letter and spirit. Institutional arrangements to ensure effective implementation include putting in place procedures and effective systems in place and allocation of fiscal and human resources. Clear rules and regulations for implementation and safeguards against discrimination need to be spelt out, along with on-going capacity building of duty holders (all branches of government - vertically and horizontally). Convergence of all these departments is essential, and measures to facilitate intra and inter-departmental cohesion must form an integral part of the implementation module.

● Monitoring and Accountability

A continuous monitoring of implementation through on-going data collection, analysis and utilisation of these data to determine benefit of the law, policy or programme is essential. Unless this happens, the new or revised law, policy or programme is at risk of slipping back into the age old mode of gender discrimination. Provisions for transparency and access to information, internal monitoring mechanisms (within a ministry or department), availability of gender-sensitive complaints mechanisms and procedure, and external monitoring mechanisms to ensure accountability of government within a federated structure at the national level have to be incorporated at all levels. Tracking the utilisation of resources (both national revenue and foreign aid) is also essential.

Monitoring procedures must always keep in mind that the immediate State obligation is that of non-discrimination, namely the obligation of means, conduct and of result (equality of opportunity, access to that opportunity and of result). Thus, active engagement of women’s rights groups should result in monitoring the State’s provision of maximum available resources, progressive achievement of rights, international obligations to human rights treaties including CEDAW, and in making non-State actors answerable and accountable to gender equality.



Template for conducting research (Situational Analysis) during the CCF process

1. Collection and analysis of related statistics from secondary sources :

Government Reports

Information from the Statistics Department

Collection of reports from women's human rights organisations

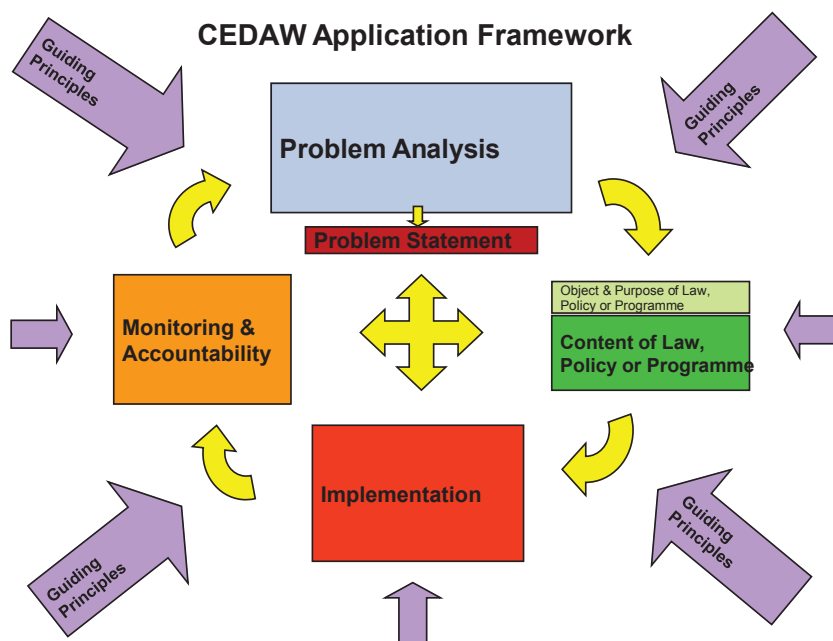
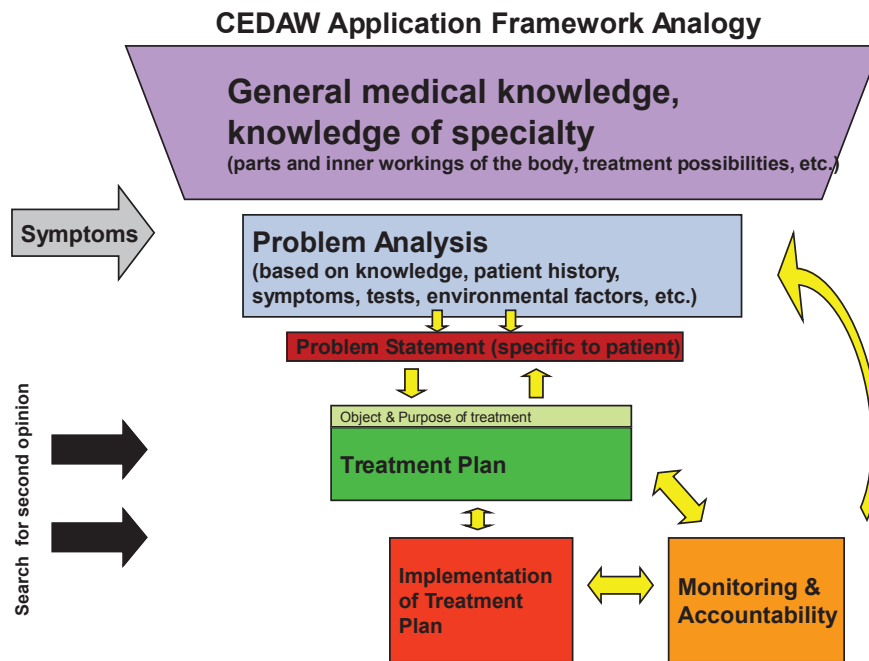
Compilations from newspaper reports

Information from courts about number of cases received, dropped and successfully concluded

2. Qualitative Information – Collection of documents highlighting the socio-economic-political context of the issue selected and how it would be useful in reviewing or drafting a new law, policy or programme :

Collection of case studies of groups and individuals facing discrimination from State and non-State actors

Mapping the accelerated impact of discriminations on women, inside and outside the home



3. Long term, short term and immediate effects of laws and policies relevant to addressing the issue selected :

Mapping and listing of relevant laws and policies

Identification of differential and/or discriminatory effects and impact of laws on women and

men, in order to identify direct and indirect gender discrimination

Collection of information on the perceptions, attitudes and experiences of police and public prosecutors regarding the implementation of the laws in question

4. Discriminatory effects (and impact) on the basis of ethnicity, religion, caste, language spoken, physical and mental ability, sexual orientation, gender identity, marital status or livelihood options - for women and men and between women :

Adequacy of logistical support, availability of skilled human resources, institutional or infrastructural limitations, corruption and other such impediments

Effect on specific classes, or groups due to lack of political will or biased treatment from State and non-State actors

5. Access to justice for women – identification of obstacles, barriers (financial, social/familial, procedural) :

Provision of legal assistance services and women's access (including lack of access and impediments)

Making communities and cultures accountable to gender equality

6. Factors and elements which exacerbate, prolong or perpetuate discrimination or gender based violence :

Socialisation into masculine and feminine roles, responsibilities, expectations and behaviour

Gender norms and gendered division of labour playing out within power dynamics inside and outside the home

Risks to women in terms of vulnerability, disparity and disadvantage

Economic conditions of individual, family and community

Distribution of duties and responsibilities in terms of sex and gender (overburdening women, for example)

7. Overcoming the negative and discriminatory effects (and impact) on the selected law, policy or programme through recommendations in :

Changes in the laws and policies

Changes in the procedural aspects of the law

Changes in institutional arrangements

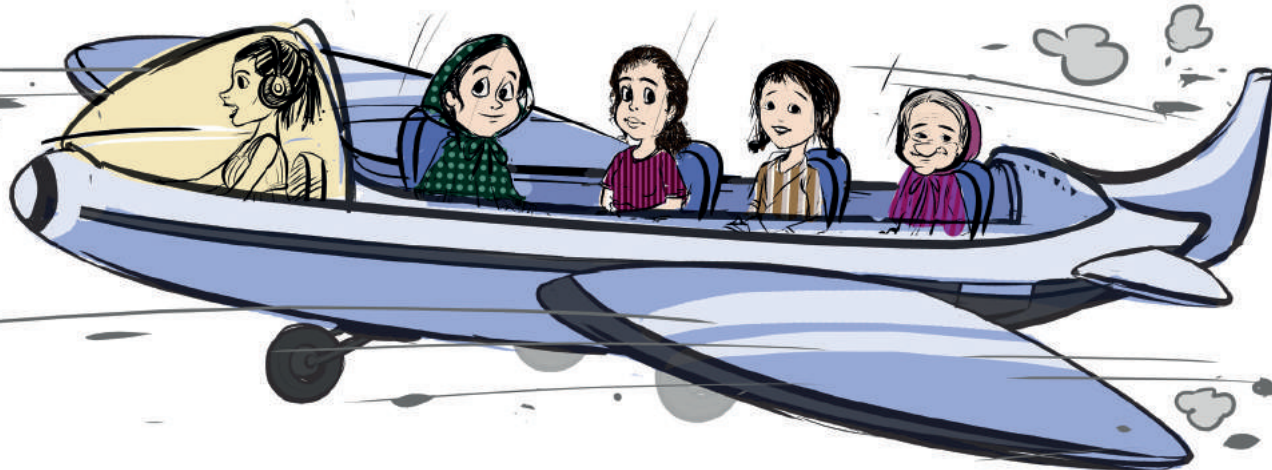
Changes in the technical facilities – training, equipment or physical facilities

Chapter

3

**EXPERIENCE GAINED THROUGH
THE CCF PROJECT IN SIX COUNTRIES**

*this chapter highlights the sharing from
partner organisations of the ccf project in 2015.
it has been presented in a conversational mode*



- **1. Why we became part of the CCF project.....**
 - **Cambodia:** It was a good opportunity to increase awareness about domestic violence (DV).
 - **Laos:** Our concern was to remove obstacles from rural women's access to higher education
 - **Timor Leste:** Our universities don't teach gender issues. Women's issues don't attract much attention among government departments.
 - **Vietnam:** We saw this as an addition to our trainings on CEDAW and to the CCF to analyse policies.

- **2. Women face so many kinds of discrimination and violence.....**
 - **Cambodia:** International human rights treaties are not useful unless they are implemented by the government. Even though domestic violence is a critical issue, the law is not enforced properly.
 - **Laos:** Women cannot travel for higher education when it rains because most of our rural roads are not paved.
 - **Thailand:** The government data and NGO data differ on VAW. Few women report DV. They don't get enough support from public authorities.

Women of certain ethnicities and religions, migrant women and women with disabilities face multiple barriers in access to justice. Further there are financial and social barriers. Police officers don't have the skills or willingness to record VAW. Government budgets are not adequate, and coordination between government agencies is poor.

→ **Vietnam:** Gender issues are not considered important by civil society organisations, NGOs, media or the government. In spite of a strong women's union, a protectionist approach to women's rights exists.

● 3. Choosing the issue for CCF...

→ **Bangladesh:** Advancing women's rights in agriculture, because it is a neglected area in spite of women's heavy involvement in this sector. A draft National Agriculture Policy was being formulated and there was ample discussion happening around it, so it was a good opportunity. We decided to focus on agriculture and VAW.

→ **Laos:** Access of rural women to higher (post-graduate) studies.

→ **Timor Leste:** Bringing girls back to school after pregnancy and addressing religious stigma around the issue. We also chose to work on rights of women in employment.

→ **Vietnam:** Women retire earlier than men due to the government's protectionist approach. They also face discrimination in land rights due to patriarchal mindsets, as a result of which they have no proof of owning property and cannot use it as collateral for loans.

● 4. Conducting research (the situation analysis).....

→ **Bangladesh:** This was the first time such a situation analysis was being conducted in the country. In spite of women's contribution to agriculture their role was hardly recognised



and women have been particularly marginalised since the ‘green revolution’ because modernisation and technology dependent agriculture reject women’s traditional knowledge of farming.

- **Laos:** We did research with women in 46 poorest districts in the country. We studied key factors affecting women’s access to higher education; how the development and education plans of the government impact on this access and how socio-economic and cultural factors affected women’s equitable access to academic studies at higher levels.
- **Thailand:** Qualitative data showed that DV was still considered a private issue by victims / survivors as well as law enforcement agencies. Maintaining family relationships is considered more important than prosecuting perpetrators. Deep rooted patriarchal values keep women in subordinated status in spite of a gender equality law in the country.

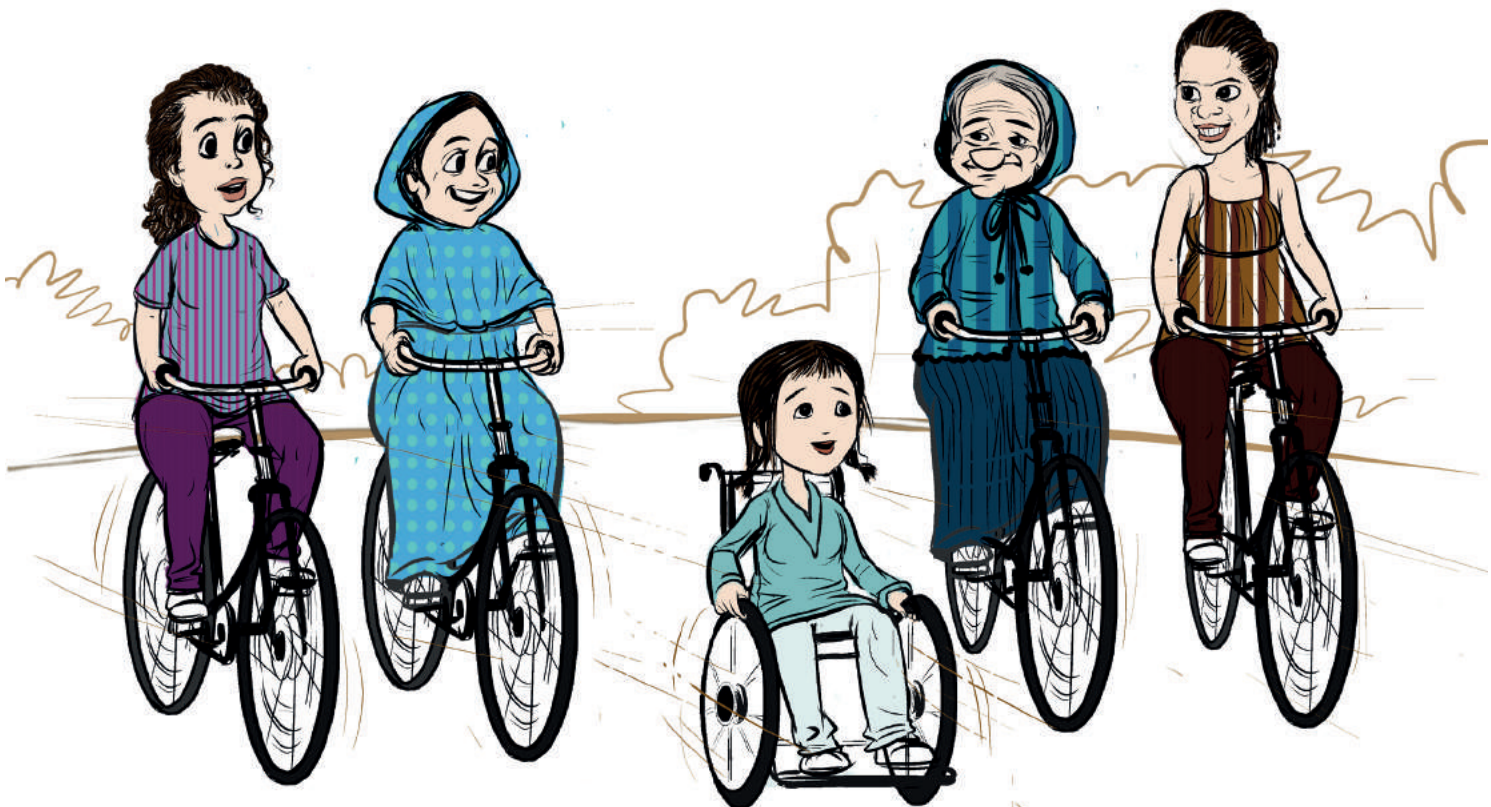


- **Timor Leste:** The Advocacy Working Group researched the rate of drop-out for girls at school, including in the private sector in five districts of the country, and all documents related to the government’s commitment to CEDAW.
 - **Vietnam:** We conducted surveys in some provinces about inequality in land rights.
- **5. The gains through the CCF process.....**
- **Bangladesh:** Naripokkho successfully reviewed three laws and one policy. We identified gaps in the law on violence against women and the Agriculture Policy. A draft set of recommendations was prepared on laws on VAW and we are hoping to change the law and policy based on the same.



- The CCF was used to innovatively engage in national and international advocacy against genetically modified organism (GMO) crops. The Campaign against tobacco cultivation was connected with food security. The impact of modern agriculture and technology on VAW is currently being researched.
- **Cambodia:** We did capacity building of network members who became aware of importance of recording data and using CEDAW to analyse laws, policies and their implementation.
- **Laos:** Not only will the research highlight factors that reduce rural women's access to higher education, but its results will contribute to education policy makers in the government and NGO sectors.
- **Timor Leste:** After five trainings on the labour law to relevant groups by the Advocacy Working Group (AWG), and after meeting the Secretary of State thrice regarding the creation of a gender specific division, the State launched the first report on conditions of women working in the private sector. The AWG met the Minister of Education thrice and made a formal submission to revise the education curriculum to include gender issues to see that girls are able to return to school after childbirth.
- **Vietnam:** We gained greater understanding of violations of gender equality standards. Women members of the National Assembly have become advocates in eliminating discriminatory practices. It is now compulsory to put men and women's names on certificates of common property. The National Assembly has shown more willingness to invite CSOs to meetings and consultations. At grass roots levels, participants are trying to build capacity of women's unions.
- **6. Challenges faced.....**
 - **Bangladesh:** There was lack of clear understanding about the CCF. Funding constraints made it difficult to move forward with advocacy work, law reform and policy reformulation efforts.

- **Cambodia:** There was not enough clarity among the member partners and team. There weren't enough updated information and statistics about DV by the government. NGO statistics are not representative of the entire country due to their limited scope.
- **Laos:** The constraints of university structure hampered some of our work. Our dualist legal system doesn't allow for automatic compliance of international instruments. NGO data or stories from people are not considered enough evidence by government; no official data on gender issues is available.
- **Thailand:** Treatment programmes for abusers are currently restricted to alcohol and drug addiction and focus on family reconciliation. These cannot be the focus of DV interventions. Periodic review required is to evaluate effect of DV law. Sexual violence and other forms of DV are not yet adequately recognised. 'One stop crisis centres' need more budget and personnel.
- **Timor Leste:** Lack of capacity with respect to monitoring and implementation within organisations. Lack of database on gender issues.
- **Vietnam:** Age at retirement didn't get equalised in spite of some revisions to the law. All members of the network don't share the same perspective on gender issues, priorities and direction of activities. Being small, NGO work cannot happen at a national scale.



● 7. Combined learning.....

We were able to:

- gather credible and reliable information from respective governments, including information/data that is gender-segregated
- sustain commitment from people and network members currently participating in the CCF project
- use the CCF as a tool for raising awareness and building momentum to talk about government policies, as well as customs and traditions in a more critical light

We realised that:

- political climate makes the passing of gender-focused laws (as well as implementation of CEDAW) difficult
- lack of resources (technical, financial, human, time) and funding can create stress around projects, but also that it is often an unfortunate reality of doing work in this area
- the government's unwillingness to accept NGO data in spite of not having reliable data of their own
- in many countries there was lack of coordination between government and NGOs, and generally an anti-NGO attitude among governments, such as viewing NGOs as "the enemy"
- where there is a good relationship with the government one can get many things done
- the cycle of diminishing rights in some countries was detrimental to gender equality
- we have to be wary of protectionist measures and need to raise awareness about substantive equality
- the differential/inadequate level of influence that NGOs have with government ministries (participants from Thailand) can make a difference in accepting our demands
- there is indeed a need to "popularise" the CCF so that CEDAW is seen as relevant beyond simply the writing of shadow reports, because it adds value to the women's rights movement
- in some countries the CCF may provide momentum to do more research on particular issues and to move away from the old way of doing things
- linking the specific issues we were working on to other areas and sectors was difficult because of work being done on a stand-alone basis rather than being gender-mainstreamed
- in a hierarchical and patriarchal society, men hold most decision-making positions, and there is lack of understanding among enforcement officers and judges about gender issues; thus the CCF can and needs to be used to make laws more gender sensitive

- The strong presence of women from different ethnic groups or religions adds strength to our analysis

We need to:

- ensure that people who attend training on using the CCF become national experts
- ensure that the best solution is applied to the particular challenge
- ensure that people should pass on the knowledge before leaving the organisation, so that the process doesn't suffer
- be aware that coordination between networks is very important
- popularise the CCF so that it can have broader impact and stimulate discussions on issues such as "who is a woman?"; it can change laws to take into account of all categories of women, including the homeless, those in detention, sex workers, LGBT people, minorities, women with disabilities and so on
- Participants from Vietnam noted that belonging to a network of gender activists meant increased opportunities for constructive consultation and a stronger basis from which to draft shadow reports.

● 8. Sustaining the work after the project.....

- **Bangladesh:** UBINIG/NGP plans to replicate the learning of the CCF in other areas and issues. They plan to continue documentation of agricultural sectors where women (particularly women agricultural labourers) are affected by agricultural policies and they plan to work on VAW, discrimination and non-recognition of women's role in agriculture. Women's reproductive health will be linked to the use of chemicals in agriculture as well as GMOs. A strong women's voice for gender-sensitive agricultural policy will be raised to develop seed networks among women's groups and to disseminate information at local level. It will involve women scientists and liaise with the media to report on the effects of harmful agricultural practices on women.
- **Cambodia:** The CCF pilot project on DV may be expanded upon in the next phase when NGO-CEDAW plans to conduct a national survey to collect primary data, rather than using the statistics currently available from NGOs, in order to build stronger support for the project and the organisation's activities. They will formulate recommendations to the Government, prepare for future advocacy activities such as drafting a shadow report for the CEDAW Committee this year that will include recommendations on DV. NGO-CEDAW could educate partners and CSOs from the CEDAW network on the CCF because a major role of CSOs in Cambodia is to encourage implementation of laws.

- ➔ **Laos:** The University will mobilise resources already available with various departments (law, human rights, women's legal education, relationships departments, for example). Situation analysis continues to be a key element for learning about the implementation of CEDAW in Laos. They will use existing international funding collaborations which promote projects aimed at strengthening the rule of law to be used in conjunction with CCF, such as the implementation of the CEDAW Committee's Concluding Observations. They will work with the National Coalition for the Advancement of Women (part of the Prime Minister's office) towards this purpose.
- ➔ **Thailand:** The groups will use CEDAW principles to improve management of DV in the country so that women who have joined the CCF project would be in a strong position to lobby the Government for change. They hope to amend the DV law and to make police and courts more gender-sensitive. They intend to work with an association of women's networks in Thailand that have influence with the government so that women in parliament emphasise gender responsive budgeting, monitoring women's human rights, gender equality and women's access to justice. The political turmoil has halted talks of women's rights, and so they will also work more closely with donors, the private sector and other NGOs.
- ➔ **Timor Leste:** The Advocacy Working Group hopes to continue working on CCF and to create a new advocacy strategy. In particular, the Advocacy Working Group will continue to work closely with a women's parliamentary group – GMPTL. It will continue to collect data on young girls and early pregnancy and women's labour situation, and strengthen its relationships with the Labor Association and the media towards awareness-raising efforts.
- ➔ **Vietnam:** The Network which has identified the CCF as an awareness tool will continue to advocate for legal reform and encourage more organisations to use the CCF as a basis for legislative change. In particular, the Network hopes to inspire young people, so that another generation of gender activists can continue their work.

● **CCF projects could be made more sustainable in the following ways (combined learning):**

- ➔ To continue Capacity-building activities – in the Timor-Leste context, it would work better if the State was also involved and not only civil society (participants from Timor-Leste);
- ➔ For IRAW Asia Pacific to continue its national level involvement (participant from Bangladesh);
- ➔ To build a local pool of expertise, especially among the new generation of gender activists (participants from Vietnam);
- ➔ To increase solidarity among ASEAN countries (participants from Bangladesh).

● 9. What would we do differently if we had to start afresh.....

- ➔ Examine interconnectedness of issues (Thailand)
- ➔ Form a broader, national alliance (Thailand)
- ➔ Establish a Facebook page or list serve for participants to keep in touch (Cambodia)
- ➔ Obtain more stories of people on the ground through participatory research and share these rather than focus too much on obtaining data that governments will refuse to accept as a basis for policy revision – these stories from people on the ground can provide a realistic picture of how issues are affecting women, as well as become a monitoring tool. Pictures, photo diaries and other means of storytelling could also be explored as ways of understanding the CEDAW principles of non-discrimination and substantive equality in people's lives (Vietnam)
- ➔ Think about how the CCF could be used as a means of helping to protect women in situations of armed conflict (Thailand)

Chapter

4

**AGE AT RETIREMENT IN VIETNAM:
A CASE STUDY
OF CCF APPLICATION**

In Vietnam, the current labour code (Article 187) states that women are to retire at the age of 55, whereas men are to retire at age of 60. However no age at retirement is notified for women in the informal sector or those engaged in manual or hard labour. The most impacted categories of women are the civil servants, researchers, professors, doctors, teachers, and those in the organised sector. The unequal retirement age for women limits their opportunities to seek higher positions of promotions at the work places as well as their chances to receive training to enhance their professional skills. Thus, unequal retirement age has been an old issue for women's rights groups and even has been raised consistently by the CEDAW Committee. However the Vietnam Government has not taken any action to rectify the situation because nearly 80% of men as well as a large number of women in the National Assembly are not in favour of equal age at retirement, even though the life expectancy of women is five years higher than that of men, and there is no evidence to show that women's professional capacity is diminished earlier than men.

The problem analysis showed that this discriminatory age at retirement policy limited women's right to education; right to work; right to promotion and right to equal retirement benefits. In fact, women are already more disadvantaged than men in terms of promotions when they have to take time off for childbirth or to take care of young or sick children. The social construction of gender places childrearing as women's primary responsibility, affecting their wages and participation on equal terms with men in the workplace. It was also observed that:

women have not had the opportunity to learn about their rights, or about the State's obligation to respect, protect and fulfil their rights

critical arguments about gender have not been part of Vietnamese society and men are worried about losing their power and extra benefits

traditional gender roles of women focus on taking care of children, the sick and elderly; thus women want to retire to take care of families

salaries at higher levels are low as compared to pension amounts, resulting in women preferring to retire early

poor working conditions and poor healthcare services for women at work impact women's health status, making them want to retire and rest as soon as possible

a large number of women want to retire earlier than men to get two income sources - one from their pension and one from doing some extra work after retirement

the early retirement policy impacts women civil servants, officials and managers who can influence policy and decision making process; thus gender discrimination is perpetuated due to fewer women in high positions in their professions, and as a result, in unions and party positions too.

this policy is a violation of Articles 3, 7, 8, 10 and 11 of CEDAW; it also shows the unwillingness of role of the government in complying with the Convention.

According to the Labour Force and Employment Survey in the 2nd quarter of 2014

The proportion of women participating in the labour force was not much lower than that of men (73.4% and 81.9% respectively). Women's average monthly income was equivalent to 90% of that of men in high posts, and 85.9% of men's wages in unskilled jobs. The proportion of women participating in the labour force in rural areas was much higher than that in urban areas (81.2% rural versus 70.0% urban). The proportion of women working in the informal sector was higher than men (68.8% and 56.8% respectively) nationwide. The rate of women workers in rural areas with informal work was higher than in urban areas (77.1% and 48.57% respectively). Therefore, the opportunities and access of women to official employment, with the assurance of social insurance and labour conditions are lower than men. Among female workers, the groups with fewer opportunities were the ones in rural areas, minority ethnic groups, women with disabilities or those with low skills and low education.

The provision of earlier retirement for women leads some employers to discriminate against older workers by pressuring them to retire - either to replace them with younger workers at lower salary, or to avoid investing in improving working conditions for older female workers. Women workers (especially in the private sector), do not have access to justice when such violations occur, also because labour unions are not actively engaged in challenging gendered power relations between employers and women employees.

Therefore the retirement age differential reverberates throughout the working lives of women in Vietnam, contributing to other direct and indirect forms of discrimination against women. It affects income, promotion, training opportunities, and the proportion of women who reach senior positions in the government, civil service and other key organisations.

Tentative solutions:

Long-term objective: Amending Item No. 1 Article No. 187 in the Labour Code. Eliminating gender discrimination in all areas of life.

Short term objective: Consultations for the development of the Guidance Decree for the implementation of Labour Code to increase the retirement age for the women at least in some occupations (researchers, scientists, lecturers, teachers, specialists, engineers, doctors and senior technicians).

Substantive equality measures: As long as the age at retirement is discriminatory, women should get promotions quicker than men (every two years instead of three). That will reduce the gap between wages at higher levels and increase retirement benefits for women.

Remaining involved in the process of formulation of guidance decrees for the Labour Code

Changing social awareness of gender roles, especially the social awareness of leaders.

Increasing the number of women participating in the National Assembly, Central Executive Committee, the Politburo and other decision-making bodies.

Promoting the quantitative and qualitative participation of women in leading post in the government, ministries, line-ministries, branches and local communities.

Reinforcing the role of CSOs in monitoring and evaluating the implementation of CEDAW by integrating the issue of equal retirement age in the Universal Periodic Review process, and CSOs conducting scientific studies to clarify the evidence in favour of equal retirement age.

The following stakeholders were identified for specific advocacy efforts:

● The State:

Organising Policy dialogue about equal retirement age with the State competent agencies.

Exchanging and providing inputs and comments to advocate individual, NA Deputies, State management agencies, Ministry of Home Affairs, Health, NCFAW, Social Insurance Agency, and trade unions.

Sending UPR report to relevant stakeholders in the government to advocate for equal age at retirement.

● Media:

Inviting press agencies, TV channels, radio stations to participate in relevant events and workshops to advocate for equal retirement age.

Watching and monitoring the articles of the newspapers containing social bias.

Developing and sending articles and news related to equal retirement age.

CSOs using all opportunities to send the messages to mass media agencies;

- **Society:**

Strengthening direct communications in trade unions about the benefits for men and women when they have the equal retirement age and raising awareness about CEDAW and gender equality.

Communication within families and communities.

CSOs:

Developing a system of scientific and persuasive justifications.

Developing a set of messages on gender equality/equal retirement age.

CSOs cooperating with advisory agencies (Health, Social Security Agency, Women's Union, Gender Equality Department, Trade Unions, Female Deputies of NA) to advocate for equal retirement age.

Organising policy dialogues, seminars and workshops on equal retirement age.

Matching advocacy for equal retirement age in Vietnam with regional and international events (forums or meetings of ASEAN, for example).

CHAPTER 4.2

IDENTIFYING MULTIPLE DISCRIMINATIONS IN THE AGE AT RETIREMENT POLICY

Dr Thanh, a retired doctor meets Ms. Phuong who has just returned from a CCF workshop that discussed the Age at Retirement Policy of Vietnam.

Dr Thanh: I've understood the CEDAW, but I need an example of how to apply it to an actual law. So please tell me about the CCF

Ms. Phuong: Maybe we can discuss the age at retirement policy in Vietnam which we took up as an issue for the CCF. It's discriminatory because women retire at the age of 55 and men retire at 60.

Dr Thanh: But wasn't this policy made to honour women who had served in the wars besides looking after the home? Early retirement allows women to concentrate on their grandchildren and get some well deserved rest, doesn't it? I was a guerilla fighter during the big wars and when I returned to a government teaching job after that, I thought I was being rewarded as a woman, for my contribution to our country.

Ms. Phuong: If giving women special benefits was the case, then why were women from the informal sector not included in this policy? They also fought in the wars. It's all about economics. When men are on the warfront, women are needed in the market force, but when men return they need the jobs in a recovering economy and so women are encouraged to return home. Looking after the men's needs, bearing children and housework are suddenly glorified for women.



Dr Thanh: Oh dear, now I understand why it is a gender issue. This policy discriminates against women, especially poor women. There's really no retirement for women who work on farms or small factories.

Ms. Phuong: True. I remember that my mother was not sent for advanced training or for conferences once she reached 50 because they said she was going to retire soon. They just stopped investing in her even though she was very good at her job.

Dr Thanh: Now that you mention it, I also couldn't represent my union when I was close to retirement age, and that didn't allow me to rise in the party machinery too! My male colleagues suddenly rose much higher than me. I had felt so upset at that time. Now I know why.



Ms. Phuong: This is how one discrimination perpetuates another one. That's why it needs to be eliminated in every sphere of life. Early retirement puts women at disadvantage even before they retire.

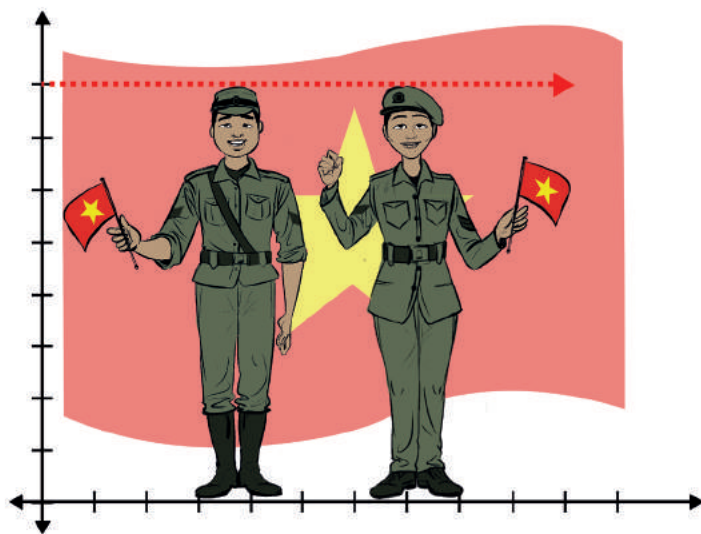
Dr Thanh: I remember getting much less pension than my male colleagues when I retired. That's not fair! We need to change this policy. Maybe we should use CEDAW and lobby with sensitive law makers to equalise the age at retirement.

Ms. Phuong: Yes, and in the meanwhile, we should ask for special temporary measures for women, such as faster promotions and more training inputs to reach higher positions. That will at least reduce the gap created by discrimination between men and women.

CHAPTER 4.3

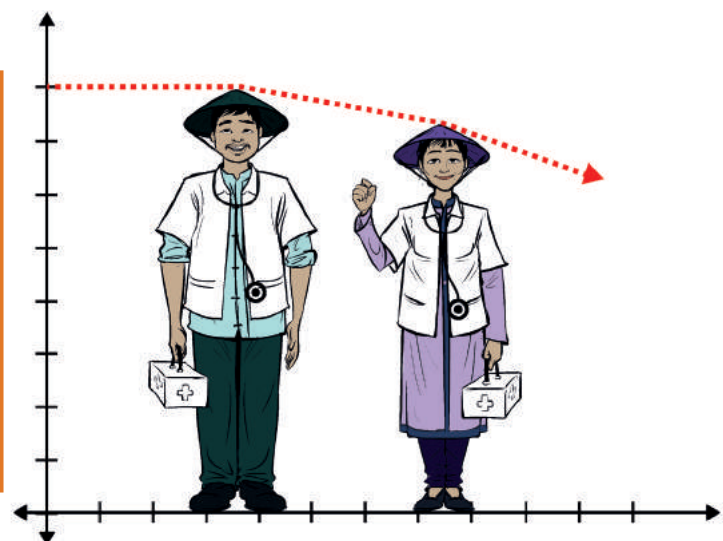
IMPACT OF THE DISCRIMINATORY AGE AT RETIREMENT POLICY

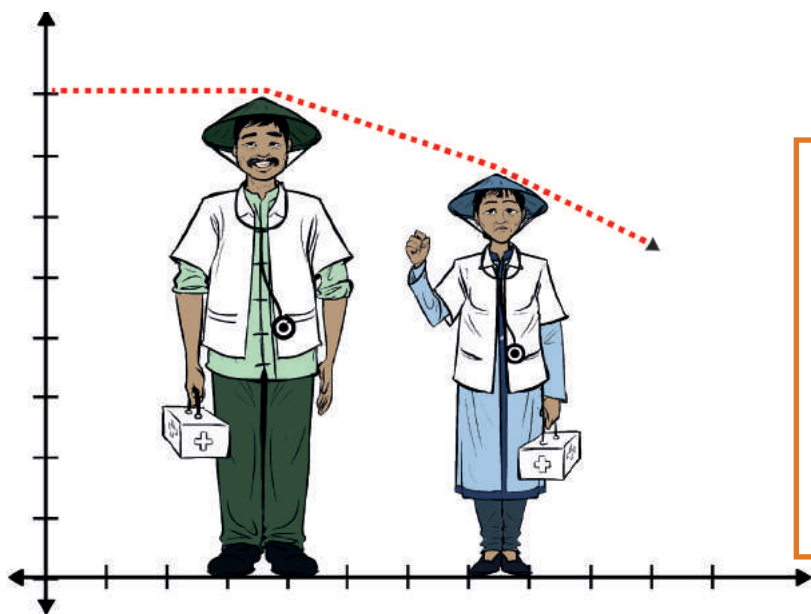
The adverse impact of the gender discriminatory Age at Retirement Policy starts much before the woman retires earlier than a man, and it continues even after she retires. That's why Labour Code (Article 187) needs to be amended



Men and women liberated Vietnam together. Now these young people want to heal the country by becoming medical doctors. They join the profession with equal qualifications

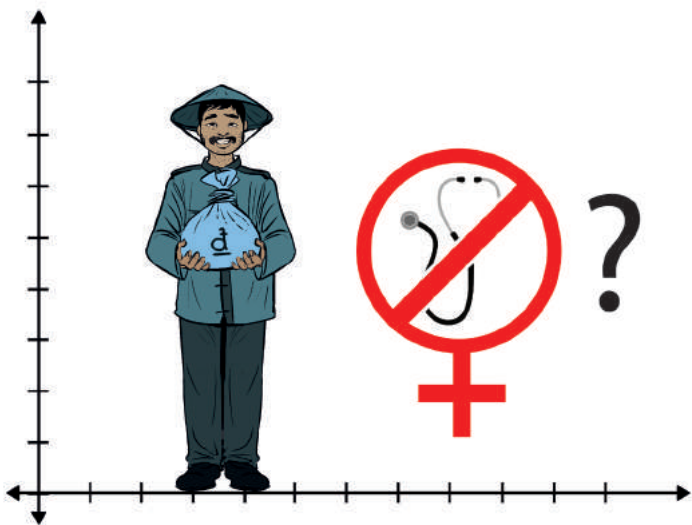
Pregnancy, child rearing and family responsibilities put the woman doctor at a disadvantage in comparison to her male colleague who is not expected to perform domestic duties. By the age of 35 he has become her senior at work





Skill enhancement is discouraged for the woman doctor once she reaches the age of 45 years. As a result, her position in the professional body is much lower than that of the male doctor

The woman doctor retires at the age of 55. She therefore leaves with a smaller pension and retirement benefits



Where has the equally competent woman doctor vanished at the age of 60?
The male doctor gets a bigger retirement package and pension.

Dr Thanh: Okay, now I can see how the three core principles of CEDAW – Non-Discrimination, Substantive Equality and State Obligation can be applied to this policy. In fact I feel we can apply it to other policies as well.



Ms. Phuong: I think so too. Really, the CEDAW Compliance Framework is not so difficult to apply to a national law. We need to be strategic to act when a law is being changed or modified and lobby collectively for gender equality.



Dr Thanh: The job ahead of us is difficult, but it's not impossible !

Chapter

5

THE WAY FORWARD

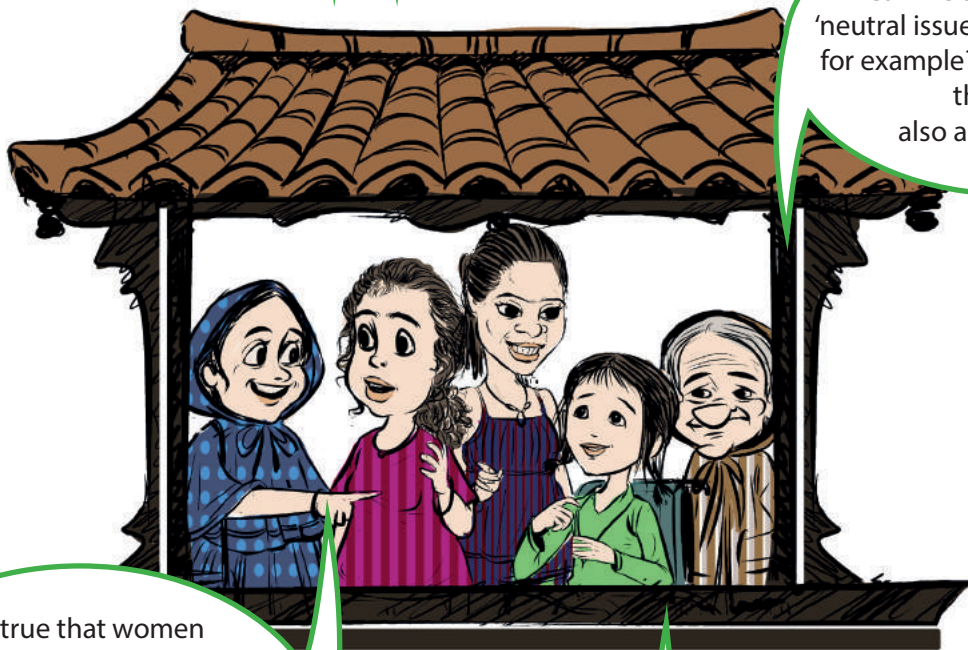
CHAPTER 5.1

APPLYING THE CEDAW COMPLIANCE FRAMEWORK TO A SEEMINGLY 'GENDER NEUTRAL' ISSUE SUCH AS AGRICULTURE

Now that we know how to use the CEDAW compliance framework after visiting six countries, I'm feeling confident that we can use it in our countries too. What do you think?

Yes, it seems doable. We just need to remember that our strategies should focus on laws, programmes or policies that are scheduled for change. If a law has been passed recently, there won't be an amendment immediately

I have a question. Can we apply the CCF to 'neutral issues' such as agriculture for example? How do we explain that it is also a gender issue?



It's true that women do most of agricultural labour in many parts of the world. But who is the decision-maker about what to grow or where to sell it?

Yes, and who controls the money? More importantly, who owns the land? How is land passed on from one generation to another? Do women get their fair share in the process?

Since women don't have ownership, they are not perceived as 'farmers'. They can't get loans or compensation during natural or man-made disasters. So agriculture is very much a gender issue!



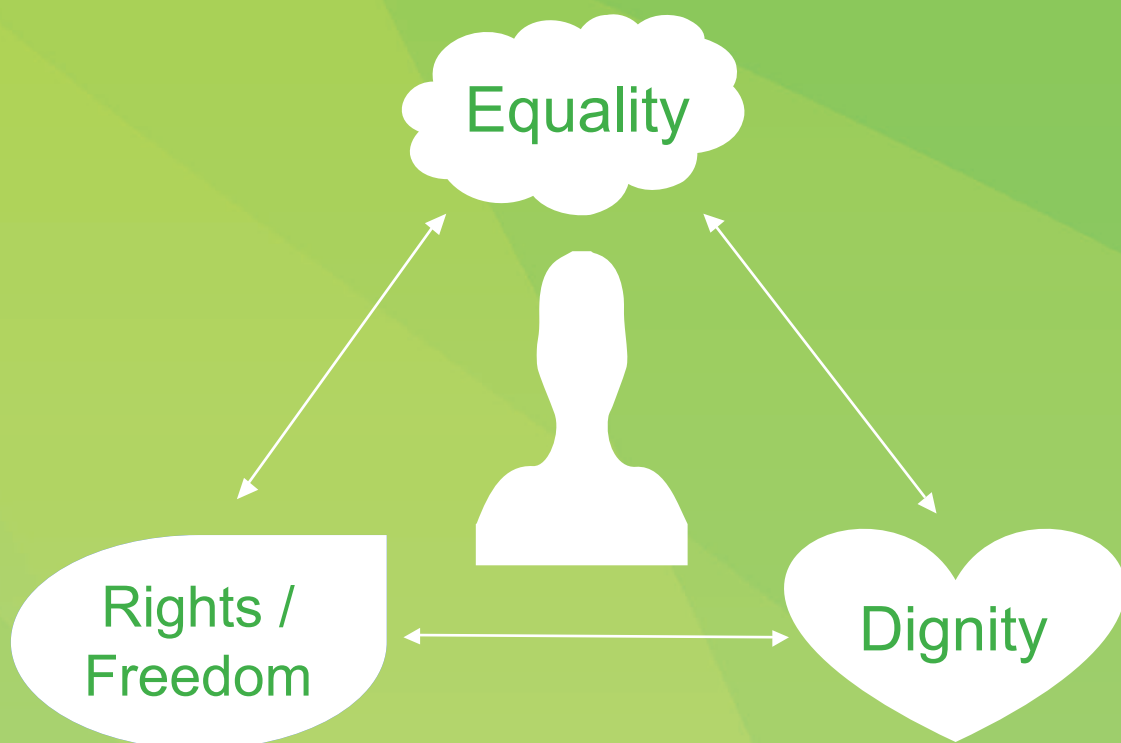
Most back-breaking agricultural work is done by poor and landless women but their participation in decision-making and control over the produce is minimal. Men's role increases when monetary transactions take place. Men's ownership over land and women's unpaid or under-paid labour puts them at an unfair advantage as compared to women due to gender and patriarchy

The Bangladesh experience of CCF showed that women's rights are being affected by new agricultural technology and GMO crops. Women are losing their jobs and their health due to pesticides, which they refer to as 'poisons'. The increased control of transnational corporations over agriculture (beginning in the early 1990s) has steadily displaced women from jobs and deprived them of their traditional role as "seed keepers".

As corporates gain monopoly over the seed, fertiliser and pesticide markets, they leave local people with no choice but to buy their products (many of which are GMOs, whose safety has not been proven) or simply starve. This has left women in particular with little choice, given that they are primarily responsible for domestic tasks, including feeding their families.

Participation in global protests against corporatisation, unfair trade practices and GMOs by women's and environmental groups exists **in Bangladesh, but the struggle is a very difficult one.**

The importance of grounding the CCF project in the actual lived realities of women's lives, and the critical importance of showcasing interconnectedness of various issues needs to be highlighted in our activism for gender equality and social justice



CHAPTER 5.2

WOMEN'S RIGHTS IN AGRICULTURE THROUGH THE CEDAW LENS

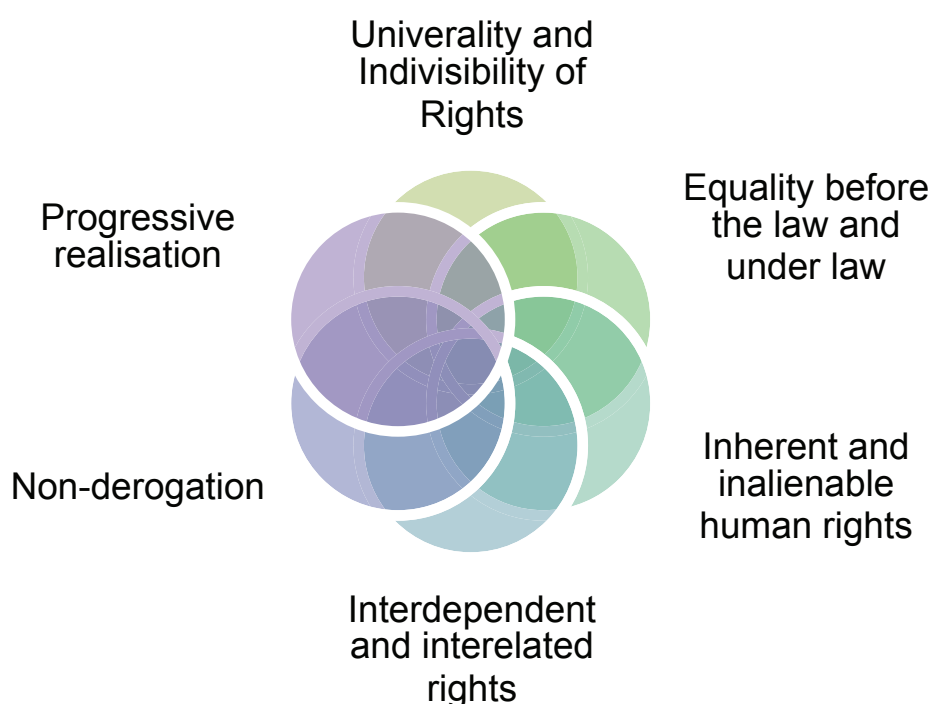
A country's agricultural improvement initiative which ignore the impact of women's participation in agricultural development can at best achieve 'false growth'. It is therefore necessary that to be effective, the policies, programmes, projects and targets should address women's specific issues. Ugboh (2006)

This section highlights the inter-linkages of CEDAW with women in agriculture. Questions raised under each CEDAW provision will help us to link agriculture with women's rights, and examples will assist in understand the impact of the crucial role played by women on their well-being, rights and lives.

- **The questions which will guide us throughout this section to understand:**

How different Articles of CEDAW can identify and address discrimination against women in agriculture

How compliance to CEDAW can fulfill the immediate State obligations of non-discrimination and substantive equality towards women engaged in agriculture



Relating the CEDAW to Rights of Women in Agriculture

● Article 1: Definition of “Discrimination”

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.

● Tips:

Are access and opportunities available and ensured on an equal basis with men, for all women in agriculture in your country? Can you identify provisions for non-discrimination in the agricultural law/policy/programme in your country?

● Group work:

To compare your constitutional definition of non-discrimination with Article 1 of CEDAW.

To compare all relevant laws in connections to the rights under Articles 6-16 of CEDAW.

To compare laws/policies/programmes related to rural and migrant women’s with CEDAW



Article 2: State obligation

- The State has the obligation to make human rights a reality, and to:

Prevent discrimination

Prohibit discrimination

Identify and redress

Impose sanctions against discriminating acts

Promote women's rights and equality through proactive measures

Accelerate *de facto* equality

- Tips:

To identify if some law/policy provisions perpetuate “direct and indirect discrimination” by the State as well as by non-State actors.

To identify special needs of women in agriculture based on biological needs, gender stereotypes and historical discrimination.

- Group work:

Identify special needs of women in rural areas by using Articles 6-16 of CEDAW

Review one agricultural law/policy/programme, and identify direct or indirect discriminations therein.

Identify *de facto* and *de jure* discriminations.

Article 3: Appropriate Measures

Obligates the State to promote equality through all appropriate means: this includes proactive measures and enabling conditions that are needed to ensure the full development and advancement of women

- Tips:

To identify or address the causes and consequences of historical and multiple discriminations, including the needs of women arising out of social construction of gender roles, and the disadvantages faced by women in rural area and the agriculture sector.

To identify law/policy/programmes where women in agriculture are protected by national law/policy/programmes, in comparison to Articles 6-16 of CEDAW.

- Group work:

Make a list of some benefits of being rural women/ women in agriculture.

Make a list of the challenges and needs or discrimination for being rural women/women in agriculture.

Make a list of gender stereotypes that affect rural women / women in agriculture.

List the impact of neo-liberal economic policies on women in agriculture in your country.

Article. 4: Temporary Special Measures (TSM) to Combat Discrimination

The State Obligation is to put in place affirmative action to accelerate *de facto* equality.

● Tips:

To identify and address the causes and consequences of historical multiple discrimination, including the needs of women arising out of social construction of gender roles and resulting disadvantage.

To propose measures to ensure that women benefit from the policy reform, programme provisions and new legislation.

● Group work:

List measures that promote and strengthen a political environment that uphold the primacy of fundamental and human rights of individuals and peoples.

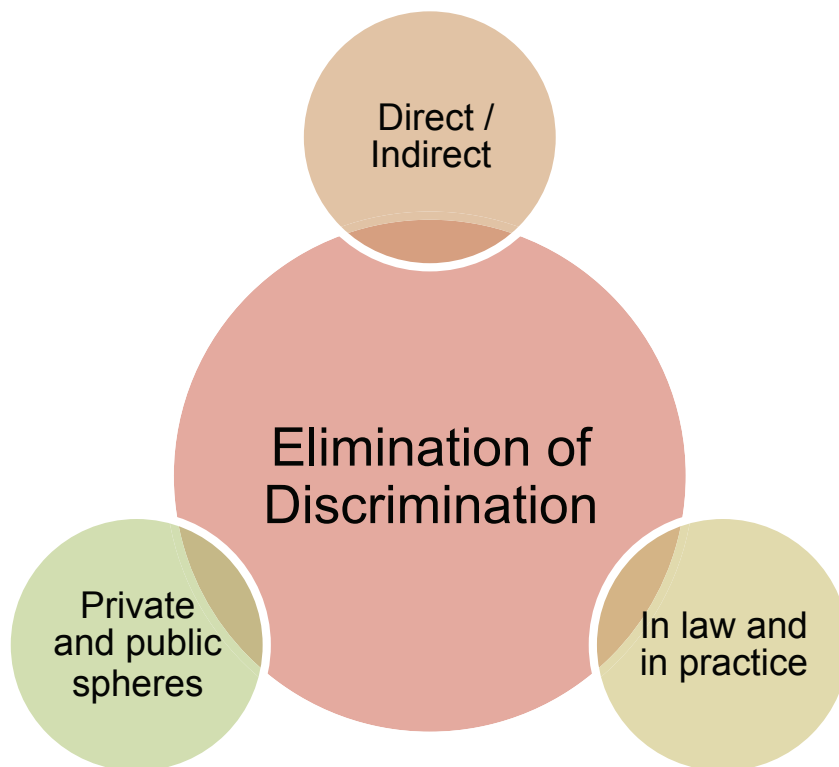
List measures that address the particular needs and disadvantage arising out of multiple layers of discrimination (the intersectionality approach).

● Examples

If the percentage of girls dropping out school in rural areas is high, then the TSM could be to increase number of women teachers and making schools accessible through safe transport to rural children. If there is low participation of rural women in the decision-making process at the community level, the TSM could be to increase participation of rural women by building local women's collectives, initiating programmes for individual and group empowerment and raising awareness about rights and entitlements.

If the reason for indigenous women not being able to derive benefits from State funded programmes / low participation in community level is inability to speak the official or national language, the TSM could be to provide translated documents and a gender sensitive translator.

If the percentages of women's representatives in agricultural and related ministries is low, the TSM could be a reserved quota for women in these ministries.



Article: 5:

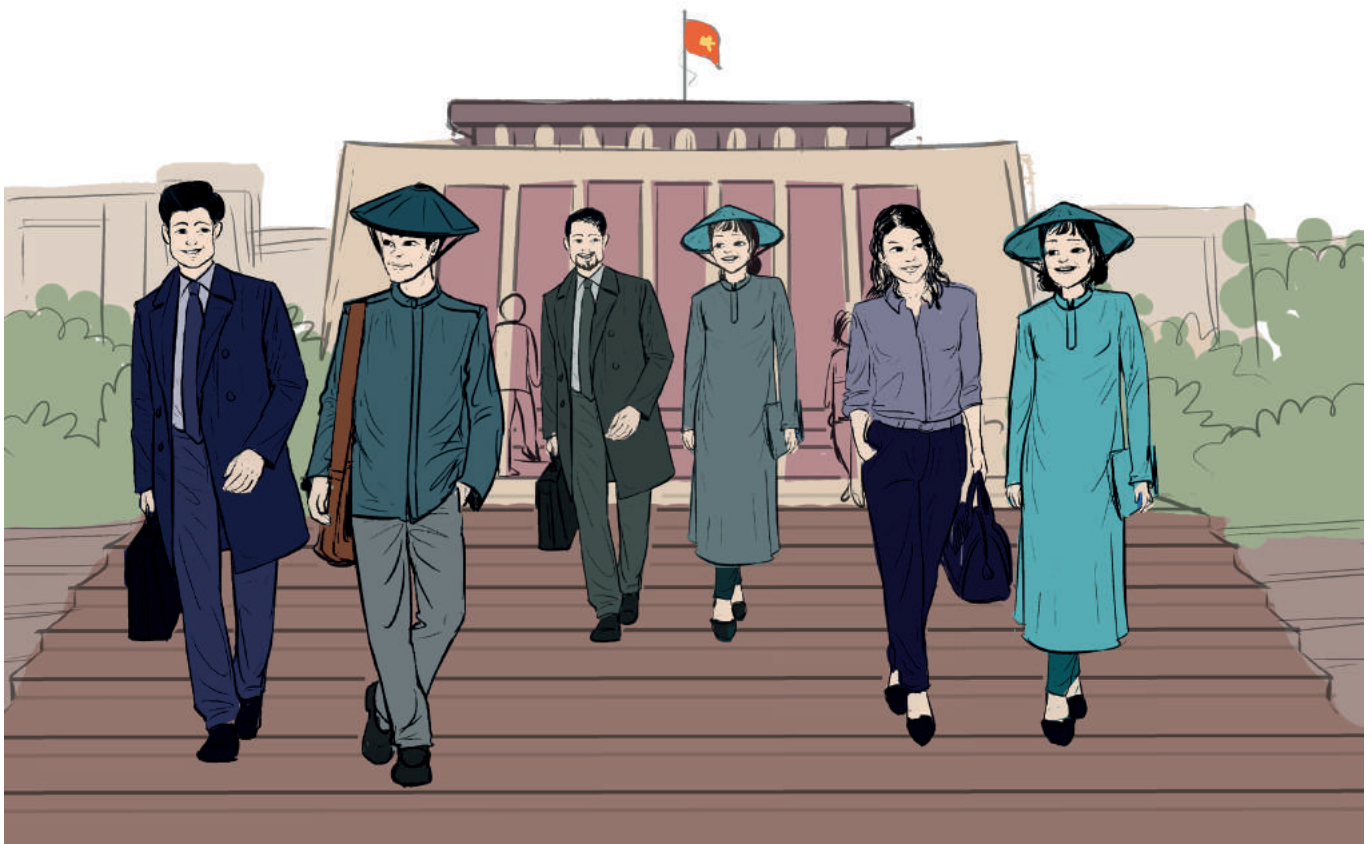
Modifying Social and Cultural Patterns that perpetuate sex role stereotyping and prejudice

Yes, and one can see how all the Articles of CEDAW apply to women in agriculture as well ! We can use Article 5 to highlight existing gender stereotypes. Men get paid more for similar work in agriculture and land titles are passed on from father to son. Women are also trafficked for exploitative agricultural work. Sometimes men marry women from other countries to get free labour, so Article 6 can be used here. Article 7 is important to ensure that women in farming are represented from local to national level politics. The voice of indigenous women must be heard in Parliament !

And similarly Article 8 can make it mandatory for the State to ensure that women in agriculture and their issues are represented internationally, especially when trade agreements take place.

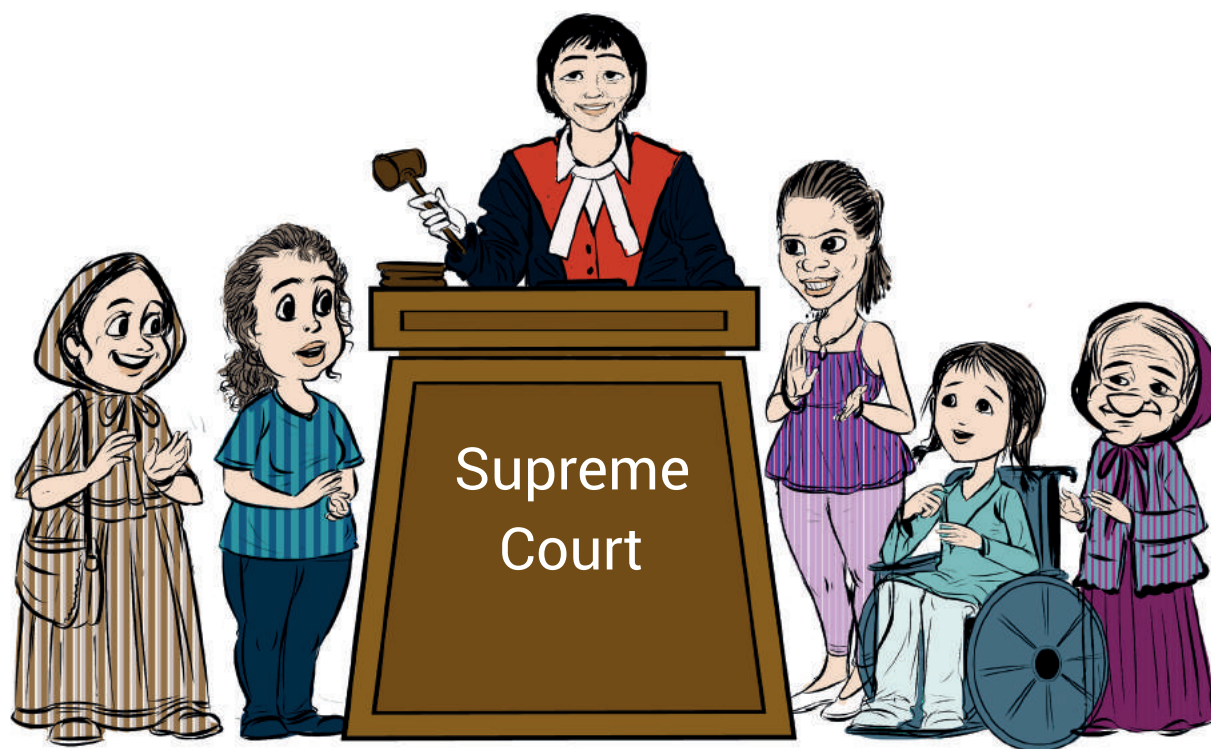
Nationality is an issue of immense concern ! What happens to migrant women workers, their birth certificates, their children's citizenship status, ownership titles of land? Article 9 can protect rights of foreigner women too.

Rural women's literacy is low, so Article 10 is of importance here. Agricultural courses that encourage women to learn about organic farming or about marketing their products can make a huge difference. Women are not unionised. They don't get equal wages, nor are maternity benefits available to women in agriculture. Their social benefits are non-existent or meagre. Safety issues are also ignored. Article 11 can help us look at discrimination in



employment.

Article 12 is important in terms of making health care services physically and financially accessible to all women in agriculture. Everyone must have the right to universal and high quality health care, including occupational health. And everyone has the right to adequate and nutritious food. Most often, economic and social benefits don't reach women. Poor, rural, indigenous and farming communities are the worst affected. Article 13 can be used



to highlight discrimination ranging from access to safe drinking water to communication technology.

And Article 14 is about rural women, where most women in agriculture are located! Women's right to land tenure and compensation after natural or man-made disasters, and freedom from forced eviction, sexual violence and intimidation are just some issues that need looking into carefully.

Article 15 deals with equality before the law, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability. Women's access to low interest credit and engaging in income-generation at par with men has to be ensured by the State. Last but not the least, Article 16 which deals with marriage and family life is of crucial importance because women work on family owned land without being decision-makers or owners. Cultural prejudices often deny basic human rights to women, and marriage can displace a woman geographically, thereby not allowing her to till land in her mother's village.

So once again we see how discrimination in one area of life can perpetuate discrimination in another area, and how important the struggle for gender equality is. We need to eliminate ALL forms of discrimination in an intersectional manner. And we can't ever forget the State's immediate obligation in respecting, protecting and fulfilling women's rights in every area of life !

Making States compliant to CEDAW in a way that every single policy promotes human rights of women in letter (*de jure*) and in reality (*de facto*) is a powerful mechanism.

