



**Challenging Gender Discrimination
A Workshop on the Effective Implementation
of CEDAW in Singapore**

By CEDAW Committee, AWARE

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❑ Definition

- **Human rights** are "basic [rights](#) and [freedoms](#) that all people are entitled to regardless of nationality, sex, national or ethnic origin, race, religion, language, or other status."^[1] Human rights are conceived as [universal](#) and [egalitarian](#), with all people having equal rights by virtue of being human. These rights may exist as [natural rights](#) or as [legal rights](#), in both national and [international law](#).^[2] The doctrine of human rights in international practice, within international law, global and regional institutions, in the policies of [states](#) and the activities of non-governmental organisations has been a cornerstone of [public policy](#) around the world. It has been said that: "if the public discourse of peacetime global society can be said to have a common moral language, it is that of human rights."^[3]

“ All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. ” —Article 1 of the [United Nations Universal Declaration of Human Rights](#) (UDHR)^[9]

❑ Universal Declaration of Human Rights

- 30 Articles

- Int'l Covenant on Civil and Political Rights (ICCPR)
- Int'l Covenant on Economic, Social and Cultural Rights (ICESCR)
- Convention on the Rights of the Child (CRC)
- Convention against Torture (CAT)
- Convention against Racial Discrimination (CERD)
- Convention on the Rights of Migrant Workers and their Families (CMW)
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

- ❑ Came into force on 3 December 1981
- ❑ 185 countries have ratified / acceded to CEDAW
- ❑ Singapore ratified in 1995

- ❑ **CEDAW is a comprehensive bill of rights for women**
 - It covers economic, social, cultural rights as well as civil and political rights and attempts to bridge the traditional divide between the two sets of rights. It was adopted by the UN General Assembly on 19 December 1979

- ❑ **CEDAW covers violations in the public & private sphere and by State & non-State actors**
 - CEDAW demands that the State take action to eliminate any discrimination that women encounter whether at home, at work or in public.

- ❑ **CEDAW addresses systemic and institutional violations**
 - Goes beyond providing individual remedies, but demands institutional change.
 - Addresses need to tackle power relations between women and men at all levels (family, community, market and state).
 - Recognises impact of negative social, customary and cultural practices which promote 'inferiority or superiority' of either sex.

- THE PRINCIPLE OF SUBSTANTIVE EQUALITY**
- THE PRINCIPLE OF NON-DISCRIMINATION**
- THE PRINCIPLE OF STATE OBLIGATION**

□ FORMAL

- Essentially, is not enough; Does not recognise difference.
- Based on neutral laws that treat women and men the same and set conditions for accessing rights according to standards that are male standards.
- This disadvantages women, since women and men are not the same.
- There are areas of –
 - » **DIFFERENCE**
 - » **DISPARITY**
 - » **DISADVANTAGE**

□ PROTECTIVE:

- Recognises difference but denies rights and has long term adverse consequences for women.
- Reinforces male and female stereotypes. Does not lead to social transformation.

□ **SUBSTANTIVE:**

- Recognises difference but affirms equality between women and men
- Places obligation to **correct** the environment that disadvantages women and hence also called the **CORRECTIVE APPROACH**

- ❑ Makes the playing field even/flat

- ❑ Requires all initiatives (law, policy, programmes and services) to lead to:
 - ***EQUALITY OF OPPORTUNITY***
 - ***EQUALITY OF ACCESS***
 - ***EQUALITY OF RESULTS OR BENEFITS***

*THE PRINCIPLE OF
NON - DISCRIMINATION*

- ❑ A focus on discrimination in the Convention establishes that inequality is socially constructed.
- ❑ There must be PROACTIVE MEASURES to bring about equality.
- ❑ Discrimination must be ACTIVELY eliminated.

- ❑ Discrimination is defined as **direct or indirect** discrimination or **intended or unintended** discrimination.
- ❑ Article 1 of the Convention 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.
- ❑ Therefore, under the Convention discrimination will occur when an apparently neutral condition or requirement is imposed that has a discriminatory effect on women, although discrimination was not intended.

DIRECT

- That which has the intention of discriminating

INDIRECT

- Unintended, any action or inaction that has the effect of denying women the exercise of all rights in all fields

Discrimination may be

- **CURRENT**,
- **CROSS-CUTTING** or
- **HISTORIC** (women may be suffering from the effect of past discrimination)

*THE PRINCIPLE OF
STATE OBLIGATION*

- ❑ **Article 26 of the Vienna Convention on the Law of Treaties (1969) states:**
 - *“Every treaty in force is binding upon the parties to it and must be performed by them in good faith.”*

- ❑ **Article 27 states:**
 - *“A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.”*

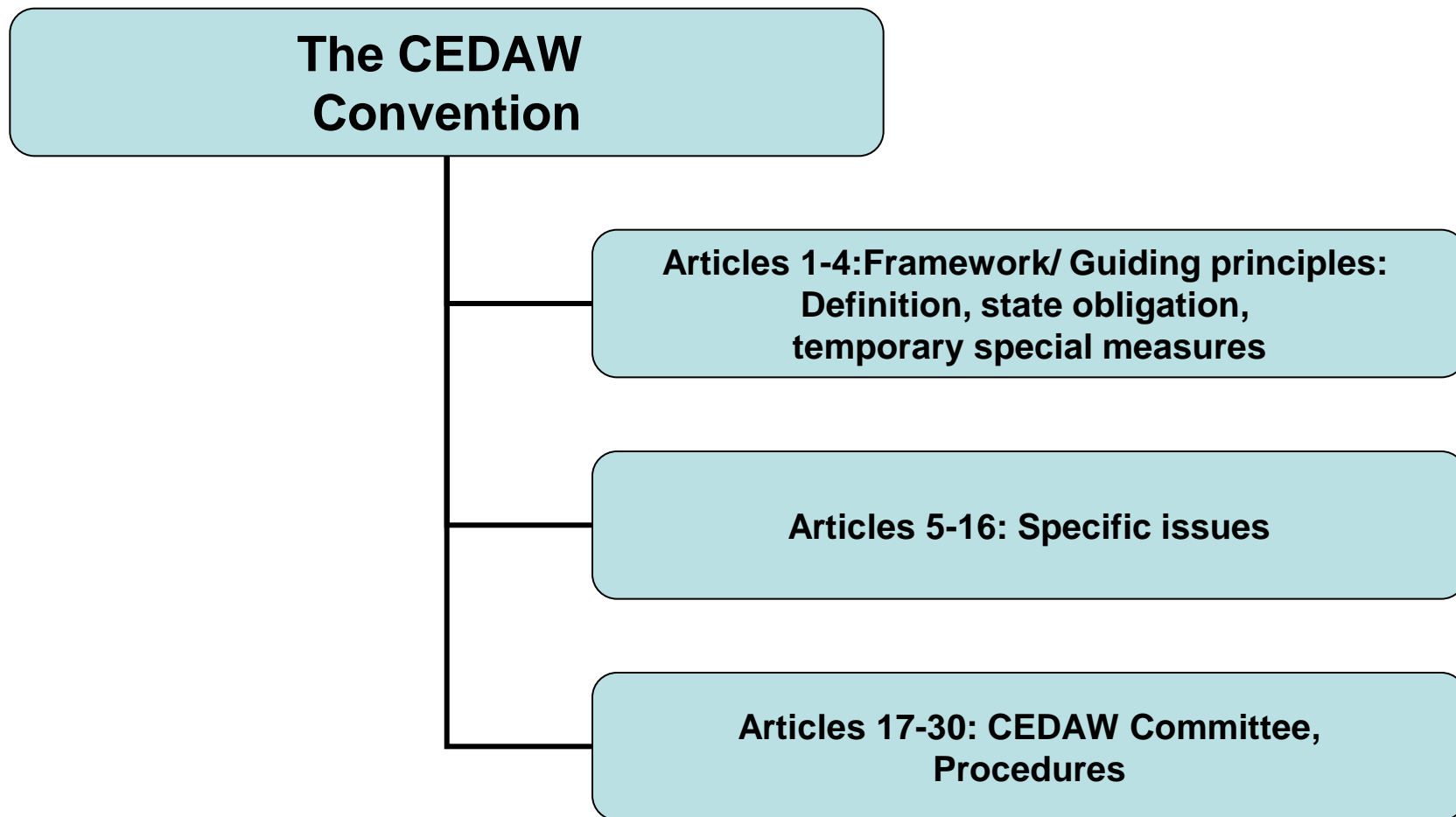
- ❑ The State must **respect** the rights of women.
 - The State or its agents cannot do anything that violates women's rights (**Articles 2(d) and 2(f)**)

- ❑ The State must **protect** the rights of women.
 - The State must ensure that private actors such as other institutions, private enterprises or individuals do not violate women's rights (**Article 2(b), 2(c) and 2(e)**)
 - This includes removing impediments to women's equality based on negative cultural and traditional attitudes and practices (**Article 5**)

- ❑ The State must **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**)

- ❑ The State must ensure **de facto equality** and not just equality in the law (Article 2(a)). This entails:
 - Obligation of **means** (laws, policies, programmes, etc.)
 - Obligation of **results**

- 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



“discrimination against women” shall mean 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.**

- 1) Article 2** obligates the State to do the following:
 - 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

- 2) 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

- 3) Article 4** obligates the State to put in place affirmative action to accelerate de facto equality

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women, and, to this end, undertake:

(e) To take all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise

Article 5: Sex roles and stereotyping

Article 6 : Trafficking & exploitation of prostitution

Article 7: Political participation

Article 9: Nationality

Article 10: Education

Article 11: Employment

Article 12: Health

Article 13: Economic rights

Article 14: Rural women

Article 15: Equality in the law

Article 16: Marriage and family

State parties shall take all appropriate measures

- (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or superiority of either of the sexes or on stereotyped roles for men and women.

- Authoritative statements by CEDAW Committee on specific articles, obligations of State and new emerging issues.
 - GR 19: Violence against Women
 - GR 20: Reservations
 - GR 24: Health
 - GR 25: Temporary Special Measures
 - GR 26 : Migrant Workers
 - GR : Discussion on Conflicts and Impact on Women

- CEDAW provides the framework to strengthen our understanding and analysis of the concept of equality:
 - Substantive equality
 - Non discrimination
 - State obligation

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