



United Nations

Committee on the Elimination of Discrimination against Women

Comments on the Draft General Recommendation No. 41 on Dismantling Gender Stereotypes and the Unequal Power Relations that Sustain them

May 6, 2026

The European Centre for Law and Justice (ECLJ) wishes to express its comments and amendment proposals to the Draft General Recommendation No. 41 on Dismantling Gender Stereotypes and the Unequal Power Relations that Sustain them (“the Draft”) written by the Committee on the Elimination of Discrimination against Women (“the Committee”) of the United Nations on the interpretation of Articles 5 and 10 (c) of the Convention on the Elimination of All Forms of Discrimination against Women (“the Convention”) regarding obligations incumbent on States Parties aiming to eliminate discriminatory practices.

The European Centre for Law and Justice is an international, Non-Governmental Organization dedicated to the promotion and protection of human rights in Europe and worldwide. The ECLJ holds special Consultative Status before the United Nations/ECOSOC since 2007.

The ECLJ engages legal, legislative, and cultural issues by implementing an effective strategy of advocacy, education, and litigation. The ECLJ advocates in particular the protection of religious freedoms and the dignity of the person with the European Court of Human Rights and

other mechanisms afforded by the United Nations, the Council of Europe, the European Parliament, the Organization for Security and Cooperation in Europe (OSCE), and others.

The ECLJ supports the necessity to adopt measures aiming to ensure the equal dignity of women and men. Nonetheless, it considers that not all of the recommendations formulated in the Draft allow for the effective achievement of this objective. By way of preliminary observation, the ECLJ would like to highlight that all anti-discriminatory policies and measures should be based on the concept of equality, which is entrenched in the dignity of every human being (I). Furthermore, the ECLJ draws the attention of the Committee on the fact that quest for equality shall not be realized at the cost of disproportionate restrictions on other human rights, most importantly, the right to life (II), the right to respect for family life and the right to education (III) as well as the freedom of thought, conscience and religion (IV). The observations on serious threats that some of the proposals of the Committee present to these rights are followed by a set of recommendations (V).

I. Inalienable dignity of the human person: the main rationale for the quest for equality

The ECLJ acknowledges that combatting harmful stereotypes for the sake of ensuring the proper equality between women and men constitutes a legitimate aim. However, it regrets that numerous recommendations of the Committee are propelled by the conceptually distorted vision of equality (in particular, **Parts I-III**). This vision is based on the premise that equality can be achieved solely through the radical eradication of natural differences between men and women. This necessarily implies perceiving femininity and masculinity as two antagonistic forces rather than complementary sets of qualities and behaviours. Beyond being unrealistic, the “*transformative conception of equality*” upheld by the Draft (**paragraph 2**) puts at jeopardy the fundamental principle of dignity of every human being.

The ECLJ submits that equality does not mean eliminating distinctiveness between women and men, which is a natural and biological fact. Categorizing every difference as a potential act of sex discrimination risks diluting the notions of “woman” and “man” and, consequently, undermining the very rationale for the existence and enforcement of the Convention. Furthermore, the acceptance of sex-related differences constitutes a precondition of respect for

human dignity. Indeed, it is only through fully assuming their feminine or masculine responsibilities that individuals may thrive, grow as human beings and contribute to the functioning of the whole society.

II. Human dignity and right to life as key limitations to the pursuit of equality objectives

The ECLJ commends various initiatives of the Committee on the promotion and implementation of the right to equal treatment, which is intrinsically linked with the overarching principle of human dignity.¹ However, it regrets that some recommendations included in the Draft manifestly undermine this principle. Most importantly, in its submissions concerning health-related measures (**Part IV. B. iv**), the Committee recommends that States Parties “[a]dopt measures to decriminalize abortion and ensure affordable and comprehensive access to safe and quality abortion, post-abortion services and information, and modern contraceptives, free from intersectional discrimination and gender stereotypes” (**paragraph 56(c)**). This recommendation, which does not find ground either in the Convention or in any other binding instrument of international law (1), runs counter to obligations of States Parties on protection of the right to life (2). The seriousness of the social consequences of its potential implementation calls for reconsideration of its inclusion within the Draft (3).

1. Silence of the Convention and international law instruments on access to abortion

A whole panoply of international law instruments guarantees the right to life, “whose effective protection is the prerequisite for the enjoyment of all other human rights.”² It is commonly

¹ See eg *The Universal Declaration of Human Rights* (UDHR), UN General Assembly in Paris on 10 December 1948 ([General Assembly resolution 217 A](#)), art 1.

² Human Rights Committee, General comment No. 36 on article 6 of the International Covenant on Civil and Political Rights, on the right to life, version of July 2017, available at http://www.ohchr.org/Documents/HRBodies/CCPR/GCArticle6/GCArticle6_EN.pdf. The right to life is guaranteed, *inter alia*, by the UDHR (art 3); International Covenant on Civil and Political Rights (ICCPR), (General Assembly resolution 2200 A (XXI)) (art 6), American Convention on Human Rights available at <https://treaties.un.org/doc/Publication/UNTS/Volume%201144/volume-1144-I-17955-English.pdf> (art 4), Convention for the Protection of Human Rights and Fundamental Freedoms, November 4, 1950, 5 C.E.T.S. 5, Rights (ECHR) (art 2).

agreed that the wording of the relevant provisions of these instruments does not allow to exclude unborn children from their scope of application.³

By contrast, neither the Convention nor any other international treaty guarantees access to abortion.⁴ None of the provisions of the Convention mentions abortion. Admittedly, in its previous recommendations and observations, the Committee has interpreted some provisions of the Convention (most notably, Articles 12 and 14, which concern, *inter alia*, access to healthcare facilities and family planning), as prescribing widening of access to abortion.⁵ Yet, the present Draft, which aims to lay down the interpretation of Articles 5 and 10(c) of the Convention (**paragraph 1**) in the context of addressing “*gender stereotypes*”, does not relate to healthcare or family planning. It is thus submitted that the question of regulating the practice of abortion bears no direct link with the subject matter of the Draft.

Furthermore, the accuracy of the premise that decriminalizing abortion contributes to the reduction of maternal mortality rates⁶ might be questioned, as it has not been scientifically proven that there exists a correlation between the application of legislation criminalizing abortion and the level of pregnancy-related mortality.⁷ Relatedly, it is worth underlining that hampering recourse to abortion is not tantamount to promoting unsafe abortion. Rather than facilitating access to abortion, the States should therefore take all necessary measures to prevent its practice for the sake of safeguarding the life of every human being.

³ This was confirmed by the rulings of the international courts and tribunals; see in particular the relevant case law of the European Court of Human Rights (ECtHR), eg *Boso v. Italy*, No. 50490/99, decision of September 5, 2002 and *Vo v. France*, No. 53924/00, [GC], Judgment of July 8, 2004.

⁴ In 2020, by adopting the “Geneva Consensus Declaration on Promoting Women's Health and Strengthening the Family”, a large group of States, reaffirmed that there is no international right to abortion, nor any international obligation on the part of States to finance or facilitate abortion. The text of the declaration is available at <https://womenshealth.gov/geneva-consensus-declaration>.

⁵ eg CEDAW General Recommendation No. 24: Article 12 of the Convention (Women and Health), U.N. Doc. A/54/38/Rev.1, chap. I (20th session, 1999) (Gen. Recommendation No. 24); CEDAW General recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations, CEDAW/C/GC/30, 1 Nov. 2013.

⁶ eg Gen. Recommendation No. 24; paras 14, 26, and 31(c); CO Timor-Leste, CEDAW/C/TLS/CO/1 (2009) para 37.

⁷ See eg the recent scientific study demonstrating that the complete or 6-week abortion bans enacted after *Dobbs v. Jackson Women's Health Organization* decision of the US Supreme Court are not associated with changes in pregnancy-associated mortality in the United States; Hiluf Ebuy Abraha and others, ‘US Abortion Bans and Pregnancy-Associated Mortality’ (2026) 9 JAMA Network Open e264801; available at <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2847291>.

2. Protection of the right to life and related international obligations

The recommendation of the Committee concerning decriminalization and ensuring access to safe abortion (**paragraph 56(c)**) is particularly problematic when juxtaposed with other international obligations incumbent upon the States Parties. As indicated above, first and foremost, abortion amounts to a clear violation of the right to life. Hence, by legalizing and promoting abortion, the States compromise their primary obligation to protect the inherent right to life of every individual.

Secondly, through several international engagements, the States have committed to protecting motherhood before and after the birth of a child. In particular, by ratifying the International Covenant on Economic, Social and Cultural Rights, the States recognized that “[s]pecial protection should be accorded to mothers during a reasonable period **before and after childbirth.**”⁸ As motherhood constitutes one of the key characteristics of women, its comprehensive protection shall lie at the very heart of the activity of the Committee.

Thirdly, on multiple occasions, the States have explicitly engaged to reduce the recourse to abortion. Most tellingly, during the International Conference on Population and Development of 1994 in Cairo, the governments committed to reduce the recourse to abortion and to “take appropriate steps to help women avoid abortion”.⁹ At the same conference, the States underlined that “in no case should abortion be promoted as a method of family planning.”¹⁰ Along similar lines, in 1995, at the Fourth Conference on Women, the States affirmed that “every attempt should be made to eliminate the need for abortion.”¹¹

Fourthly, it should be recalled that, according to the findings reached during the Nuremberg trials, forced abortion constitutes a crime against humanity.¹² Under international law, while regulating access to abortion, the States are thus obliged to prevent forced and coerced abortions.¹³ For instance, the Istanbul Convention¹³ requires States Parties to criminalize forced

⁸ ICCPR, art 10.2; emphasis added.

⁹ U.N. Population Fund, Programme of Action of the International Conference on Population and Development, U.N. Doc. A/CONF.171/13, para 7.24 (Oct. 18, 1994).

¹⁰ Para 8.25.

¹¹ Fourth World Conference on Women, *Beijing Declaration & Platform for Action* (Beijing Conference 1995), U.N. Doc. A/CONF.177/20, 103, para. 106(k) (Oct. 17, 1995).

¹² George J. Annas et Michael A. Grodin, *The Nazi Doctors and the Nuremberg Code- Human Rights in Human Experimentation*, Oxford University Press, Oxford, 1992.

¹³ Beijing Conference 1995, para. 115.

abortion.¹⁴ Against this background, it is surprising and deplorable that when enlisting “*pervasive forms of gender-based violence*” (paragraph 30), the Committee abstained from condemning the practices of forced and coerced abortions.

3. Burden of social consequences of facilitating access to abortion

The ECLJ observes that, beyond the incompatibility of widening access to abortion with the right to life and international commitments of States Parties, its decriminalization and facilitation present serious threats to the health of women concerned as well as to the functioning of the wider society.

At the outset, it must be acknowledged that, contrary to what is commonly affirmed, abortion is rarely the fruit of a free and conscious decision of the woman. In many cases, women decide to abort because of social or economic constraints.¹⁵ From this perspective, the sole act of tolerating abortion leads to exposing women to different pressures emanating from their closest environment and wider society. Such a tolerance is conspicuously incompatible with the main objective of the Convention, which seeks to ensure equality between women and men by protecting women from all kinds of social constraints.

Furthermore, the act of abortion implicates a whole set of serious psychological, emotional and social consequences for the woman, her partner and her family. Many women declare that abortion constitutes a highly traumatizing act and leaves a stigma which is difficult to overcome.¹⁶

Finally, it should not be overlooked that legalizing of abortion advances the practice of sex selection. The Committee has consistently condemned the practice of abortion on the grounds of sex.¹⁷ Given the high probability that the decision on abortion arises out of discriminatory

¹⁴ Convention on Preventing and Combating Violence Against Women and Domestic Violence, Nov. 11, 2011, art. 39, 210 C.E.T.S 11.

¹⁵ In 2014, the Guttmacher Institute reported that in the United States, 75% of women who had abortions did so because of social or economic constraints; see the factsheet available at https://www.guttmacher.org/sites/default/files/factsheet/fb_induced_abortion.pdf. See also “Abortions at record high in England and Wales 'driven by cost of living’”, *The Guardian*, 15 January 2026, available at <https://www.theguardian.com/world/2026/jan/15/abortions-record-high-england-wales-cost-of-living-contraception>.

¹⁶ See eg Cherline Louissaint, « Les conséquences médicales et relationnelles de l’avortement », in “Droit et prévention de l’avortement en Europe”, LEH, 2016.

¹⁷ eg CO China, CEDAW/C/CHN/CO/6 (2006), in particular paras 17, 31.

intentions, the ECLJ invites the Committee to nuance its position on the practice of abortion in the present Draft and in future observations.

III. Obligation to protect family life and right to education

The ECLJ welcomes the observations of the Committee regarding the measures aiming to raise awareness on stereotypes on the roles of men and women in the “*Family Sphere*” (**paragraph 54**). Nonetheless, it deeply deplores the fact that throughout the Draft, the family is presented as one of the principal settings within which the sex-related stereotypes are inculcated and where women are exposed to “*gender-based violence*” (in particular, **paragraphs 10, 14, 27, 34, 42, 47**). Such an oversimplistic representation of the family undermines the rationale of widely recognized human rights, namely the right to respect for private and family life.¹⁸ The family constitutes the fundamental unit of society within which social and emotional development of individuals takes place.¹⁹ As such, it should be preserved from excessive interference emanating from State authorities. For this reason, the States Parties should be alerted that implementation of the recommended policies aiming at dismantling sex-related stereotypes in the “*Family Sphere*” (**paragraph 54**) shall not result in disproportionate restrictions on the right to private and family life of the individuals concerned.

Relatedly, the implementation of the recommended measures concerning the “*Family Sphere*” (**paragraph 54**) must not prejudice the right of the parents to educate and raise their children in conformity with their convictions and religious beliefs. This right is guaranteed, *inter alia*, by Article 26 of the Universal Declaration of Human Rights, which provides that: “[p]arents have a prior right to choose the kind of education that shall be given to their children.”²⁰

IV. Freedom of religion: autonomy of religious institutions as a key pillar of a pluralistic society

The ECLJ acknowledges the fact that religion and religious communities have played a paramount role in shaping the common perception of the respective roles of men and women

¹⁸ eg UDHR (art 12); ICCPR (art 17), American Convention on Human Rights, (art 11), ECHR (art 7).

¹⁹ See in this sense, ICCPR, art 23(1).

²⁰ UDHR. See also eg ICCPR, art 19.

(in particular, **paragraphs 15, 34 and 35**). It considers, however, that although the dialogue between the States and religious institutions should be promoted (**paragraphs 52 and 61**), its effective implementation shall not result in disproportionate restrictions on freedom of religion and conscience, which encompasses, in particular, the principle of autonomy of churches and religious institutions.

The right to freedom of thought, conscience and religion includes freedom to manifest religious beliefs both individually and “in community with others and in public or private.”²¹ The widely recognized principle of autonomy of religious institutions lies at the very heart of protection of religious freedom.²² Pursuant to this principle, religious entities should be allowed to freely decide upon their structure and organisation.²³ This guarantees the autonomous existence of religious communities, which form the bedrock of pluralism in contemporary society.²⁴

The ECLJ submits that in conformity with the principle of autonomy of religious institutions, the States shall not be allowed to “*oversee and regulate*” the activities of these institutions in a similar manner and to the same degree as they are called to regulate the activities of “*educational institutions, workplaces*” or “*artificial intelligence and digital space*” (**paragraph 47**). Moreover, given that the principle of autonomy of religious institutions precludes States from interfering with their internal structure and organisation, the recommendation of the Committee on the promotion of “*the inclusion of women in the clergy of religious institutions*” and “*their active participation in leadership and decision-making processes*” (**paragraph 61 (e)**) is manifestly incompatible with religious freedom.

²¹ ICCPR, art 18. Religious freedom is also guaranteed by, *inter alia*, UDHR, (art 18), American Convention on Human Rights (art 12), ECHR (art 10).

²² There is a widely recognized consensus as to the existence of the religious autonomy in the case law of international courts and tribunals; see Diana Verm Thomson and Kayla A Toney, ‘Sacred Spheres: Religious Autonomy As An International Human Right’ (2023) 72 Cath. UL Rev. 151.

²³ See in particular, para 16.4 of the Concluding Document of the Vienna Meeting 1986 of Representatives of the Participating States of the Conference on Security and Co-operation in Europe, Held on the Basis of the Provisions of the Final Act Relating to the Follow-up to the Conference, para. 11, Jan. 17, 1989, through which the States committed, *inter alia*, to respect the right of these religious communities to “select, appoint and replace their personnel in accordance with their respective requirements and standards as well as with any freely accepted arrangement between them and their State”.

²⁴ In this sense, see eg ECtHR, *Fernández-Martínez v. Spain* [GC], n° 56030/07, 12 June 2014, para 127.

V. Recommendations

Based on its observations, the ECLJ presents the following recommendations to the Committee:

1. Amending the fragments substantiating the rationale for combatting “gender stereotypes”

The ECLJ recommends amending **Parts I-V** in a manner that would take due account of the fact that equality does not imply the elimination of natural differences between men and women (eg removing the reference to “*transformative conception of equality*” in **paragraph 2**).

2. Amending paragraph 30 (*in fine*) and deleting subparagraph 56(c) on measures concerning decriminalization and access to abortion

The ECLJ recommends that **paragraph 30 (*in fine*)** be worded as follows:

“*Gender stereotypes underlie and promote pervasive forms of gender-based violence, including non-consensual sterilizations or abortions, sexual and obstetric violence, ~~and the forced continuation of pregnancies,~~ which may amount to torture or inhuman or degrading treatment in specific circumstances.*”

3. Amending the fragments referring to the role of family and religious practices or institutions in shaping “gender stereotypes”

The ECLJ recommends amending **Parts I-V** in a manner which would highlight the importance of family and religious institutions in the development of human beings. These entities should not be presented as being primarily the settings within which “gender stereotypes” are inculcated and shaped.

In particular, the ECLJ recommends the addition of two subparagraphs specifying the limits to the implementation of the measures laid down in **paragraphs 53, 54 (“Education, Employment, and Economic Activities” and “Family Sphere”)** and **61 (“Culture, Religion, and Harmful Practices”)**.

Regarding the measures relating to the “*Education, Employment, and Economic Activities*” and “*Family sphere*”, the ECLJ suggests that the additional subparagraph be worded as follows:

“The implementation of these measures shall be without prejudice to the right of the parents to ensure the religious and moral education of their children in conformity with their own convictions.”

Regarding the measures relating to the “*Culture, Religion, and Harmful Practices*”, the ECLJ suggests that the additional subparagraph be worded as follows:

“The implementation of these measures shall be without prejudice to freedom of thought, conscience and religion, including the principle of autonomy of churches and religious institutions.”