AFFILIATION OF AUSTRALIAN WOMEN'S ADVOCACY ALLIANCES

Comments on Draft General Recommendation No. 41 on dismantling gender stereotypes and the unequal power relations that sustain them
11 May 2026

AAWAA is a peak body and represents women's rights organisations from all Australian states and territories. We are not affiliated with any political party or religion and advocate on the basis of evidence for the protection and advancement of women and girls where we are vulnerable because of our sex. We welcome the CEDAW Committee's elaboration of General Recommendation No. 41 and the opportunity to contribute to its finalisation.

OVERARCHING CONCERN: THE SEX/GENDER TERMINOLOGY PROBLEM

The foundational concern with Draft GR 41 is terminological, and it is not merely semantic. The Convention does not use the phrase 'gender stereotypes'. Article 5(a) refers to "stereotyped roles for men and women" and Article 10(c) to "any stereotyped concept of the roles of men and women". Both provisions are explicitly grounded in biological sex. The shift to 'gender stereotypes' throughout GR 41 creates a structural ambiguity that compromises the entire Recommendation.

In contemporary law and policy — including in Australia — 'gender' increasingly refers to a self-declared identity detached from biological sex. If 'gender stereotypes' is interpreted to mean stereotypes about self-declared gender identity, rather than stereotypes imposed on the basis of biological sex, then GR 41's obligations apply to an entirely different category of persons than the Convention intended. The result is that sex-role stereotypes — which are the documented cause of discrimination against women as a biological sex class — become conflated with, and ultimately subordinated to, gender identity claims.

The paragraph-specific concerns we raise below are a manifestation of this foundational error. Unless the Committee grounds GR 41 in biological sex from the outset, the specific amendments we recommend will be insufficient to protect the Convention's integrity. We therefore urge the Committee to adopt a definitional statement in paragraph 1 — and to apply it consistently throughout — affirming that 'gender stereotypes', for the purposes of this recommendation, means stereotyped roles and expectations imposed on individuals on the basis of their biological sex.

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COMMENTS ON SPECIFIC PARAGRAPHS

Paragraph 1

Paragraph 1 introduces GR 41 as interpreting obligations under Articles 5 and 10(c) to address 'gender stereotypes'.

As set out above, the Convention's own language uses "stereotyped roles for men and women", not 'gender stereotypes'. The omission of a definitional anchor in paragraph 1 means the entire recommendation rests on a term that carries different — and contested — meanings in different legal systems. Without this anchor, GR 41 will be applied in ways that treat self-declared gender identity as the operative category of the Convention, displacing the sex-based protections the Convention was designed to guarantee.

Recommendation: Add a definitional sentence to paragraph 1 stating that, for the purposes of this General Recommendation, 'gender stereotypes' means stereotyped roles and expectations imposed on individuals on the basis of their biological sex.

Paragraph 2

Paragraph 2 frames Article 5(a) as central to the Convention's transformative equality approach and calls on States to transform practices and institutions.

The Article 5(a) language quoted in paragraph 2 — "either of the sexes" and "men and women" — correctly grounds the obligation in biological sex. However, the paragraph does not state the corollary: the elimination of sex-role stereotypes depends on the maintenance of biological sex as a legally operative category. A legal framework that dissolves 'woman' into a self-declared identity cannot pursue the Convention's goal, because the category whose stereotyping is to be dismantled has been rendered legally incoherent.

Recommendation: Add a sentence stating that the obligation to eliminate sex-role stereotypes is grounded in, and depends upon, the recognition of biological sex as the operative legal category under the Convention.

Paragraph 4

Paragraph 4 lists "sexual orientation and gender identity" among the intersecting grounds on which women suffer discrimination.

This paragraph creates the interpretive impression that gender identity and biological sex are co-equal legal categories under CEDAW. They are not. The Convention is grounded in biological sex; gender identity is a separate legal ground developed through domestic and other international instruments. Without qualification, paragraph 4 will be used to argue that the Convention requires States parties to treat males who self-identify as women as biological women for all purposes, including the purpose of sex-based protections for women in female-only spaces, services, prisons, shelters, and sport. The UN Special Rapporteur on violence against women and girls has stated explicitly that rights on the basis of sex must not be subordinated to other non-discrimination grounds. GR 41 must reflect this principle.

Recommendation: Add a statement that where apparent conflicts arise between sex-based rights under the Convention and claims based on gender identity, the sex-based protections and rights of women must not be subordinated.

Paragraph 5
Paragraph 5 describes "the surge of organized gender backlash, which is systematic, well-funded, and driven by nationalist, religious, and populist movements".

AAWAA is gravely concerned by this framing. UN documents — including the Working Group on discrimination against women and girls — have already characterised feminist women who advocate for sex-based protections as part of 'conservative' or 'backlash' movements. In Australia, women who express views consistent with the Convention's own sex-based framework have faced employment loss, legal proceedings, deplatforming, and professional investigations. A senior academic, a paediatric psychiatrist, a journalist, an elected Member of Parliament, and a breastfeeding counsellor are among those who have faced consequences for speech entirely consistent with CEDAW's framework. GR 41, if unqualified, will be used to silence exactly the women human rights defenders it should protect. The paragraph also invokes CEDAW as a 'living instrument" — a formulation regularly used to justify interpretive moves that depart from the Convention's sex-based foundation. That characterisation should not be allowed to override the plain text of Articles 5 and 10.

Recommendation: Add a statement that good-faith, evidence-based advocacy for sex-based protections and rights does not constitute 'backlash', and that women who advocate for the preservation of sex-based legal categories must not be marginalised or silenced.

Paragraph 9
Paragraph 9 defines gender stereotyping as ascribing “attitudes, characteristics, or roles to individuals based on their perceived membership in a social group of women or men".

The definition is sound but incomplete. It does not capture the growing contemporary practice of directing gender non-conforming individuals — especially children — towards a different sex identity on the basis of that non-conformity. Telling a girl who prefers football or short hair that she may 'really' be a boy is textbook stereotyping under this paragraph's own definition: it ascribes a new identity precisely because she departs from the attributes expected of her sex class, and it reinforces rather than dismantles sex-role stereotypes as the reference point for identity. In Australia, government-funded school resources invite children whose preferences are non-aligned to the traditional social norms of their biological sex to consider whether they might be transgender. This is institutionalised stereotyping in the precise sense Article 5(a) is designed to eradicate.

Recommendation: Add that directing gender non-conforming individuals towards a different sex identity on the basis of their non-conformity constitutes harmful stereotyping within the scope of Article 5(a).

Paragraph 13
Paragraph 13 notes that gender stereotypes are "grounded in actual or perceived biological differences" and that "the understanding, interpretation, and perception of biological differences … has changed significantly over time".

The observation that stereotyped expectations about biological difference have changed is accurate. However, the framing is loose enough to be read — and will be read — as suggesting that biological sex itself is unstable, socially constructed, or subject to change through self-declaration. This is not what the paragraph says, but the implication must be closed off. The Convention addresses discrimination against women as a biological sex class. The existence of harmful stereotypes about women does not destabilise the category of biological sex; it demonstrates precisely why that category must be protected in law. The UK Supreme Court confirmed in *For Women Scotland v Scottish Ministers* (2025) that 'woman' in equality legislation means biological female, and that sex as a legal category is not altered by self-declaration.

Recommendation: Add an explicit statement that, while stereotyped expectations about women are socially constructed and must be dismantled, biological sex itself remains the operative legal category for the Convention's purposes.

Paragraph 20
Paragraph 20 addresses "women with diverse sexual orientations and gender identities' as "LBTI women" and refers to "the binary … notion of women" in the context of discriminatory judicial decisions.

The reference to "the well-established binary and heteronormative notion of women" treats biological sex as merely a stereotypical 'notion' that the Committee appears to be questioning. This is the most acute concern in the draft alongside paragraph 4. It will be used to argue that the Convention requires States parties to abandon biological sex as a legal category in favour of self-declared gender identity. It also conflates lesbian women — a category grounded in biological sex and same-sex attraction, clearly within the Convention's scope — with transgender identity, whose status under the Convention is contested. The protections owed to lesbians are grounded in their status as biological females who face specific discrimination because of their sex and sexual orientation; those protections must not be diluted by equivalence with gender identity claims. In Australia, the Australian Human Rights Commission denied the Lesbian Action Group — a group of biological females — an exemption to hold female-only events, on the basis that excluding males who self-identify as lesbians constituted unlawful discrimination. This outcome is directly produced by the logic of paragraph 20's current framing.

Recommendation: Amend paragraph 20 to clarify that protections for lesbian, bisexual, and intersex women are grounded in their status as biological females, and must not be displaced by gender identity claims.

Paragraphs 24, 25, and 30
Paragraph 24 identifies that women's reproductive capacity has been linked to a social obligation of care. Paragraph 25 states that "motherhood is often considered a duty and not a choice". Paragraph 30 explicitly states that "women can be viewed solely as reproductive instruments rather than full human beings".

These three paragraphs collectively describe the "reproductive instrument" stereotype in precise and powerful terms. Yet GR 41 is entirely silent on surrogacy, which institutionalises this stereotype more directly than any other contemporary practice. All forms of surrogacy — whether described as commercial or altruistic — commodify women's reproductive capacity and treat women's bodies as gestational vessels for the reproductive choices of others. These harms are not mitigated by the absence of financial payment; the structural power imbalance and the erasure of maternal identity are present in both forms. The Committee itself, in *L.C. v Peru*, identified the stereotype that "understands the exercise of a woman's reproductive capacity as a duty rather than a right" as constituting a violation of the Convention. Surrogacy formalises and enforces exactly this stereotype in private contract. GR 41 cannot credibly address reproductive-instrument stereotyping while remaining silent on the practice that most directly institutionalises it.

Recommendation: Add a provision in Section II.C and a corresponding recommendation in Section IV recognising that surrogacy — in all its forms — constitutes an institutionalised form of the sex-role stereotype identified in paragraphs 24, 25, and 30, and that States parties' obligations under Article 5 include addressing legal frameworks that enable the commodification of women's reproductive capacity.

Paragraph 36
Paragraph 36 sets out the general obligation to name, identify, challenge, dismantle, and remedy gender stereotypes.

The paragraph does not address a critical paradox: legal frameworks that allow individuals to change their recognised sex by self-declaration alone necessarily rely on sex-role stereotypes. For a person to be legally recognised as a woman on the basis of self-declaration, there must be a concept of 'womanness' that the law is recognising. In practice that concept is a cluster of sex-role stereotypes — appearance, demeanour, clothing. Self-declaration frameworks do not dismantle these stereotypes; they make conformity to them the basis for legal recognition.

Recommendation: Add that the obligation to dismantle stereotypes cannot be fulfilled by legal frameworks that require individuals to perform or declare conformity to sex-role stereotypes in order to access legal recognition.

Paragraph 38
Paragraph 38 calls on States parties to be "particularly attentive to legislation, policies, and measures that, though intended to protect women, run the risk of reinforcing stereotypes and creating new ones".

This instruction should be applied directly to sex self-declaration laws. Such laws are typically introduced as protective of transgender individuals but in practice reinforce sex-role stereotypes, undermine female-only spaces and services, and erode women's ability to organise as a biological sex class. In Australia, sex self-declaration laws were introduced across multiple jurisdictions without meaningful consultation with women's organisations — a direct breach of Article 7 — while LGBTQIA+ organisations were engaged from the outset.

Recommendation: Add explicit guidance that States parties must assess whether laws incorporating gender identity as a legal category have the effect of reinforcing sex-role stereotypes or displacing sex-based protections for women, consistent with the instruction in paragraph 38.

Paragraphs 37
Paragraph 37 calls on States parties to take an evidence-based approach to stereotyping, ''including the collection of statistical data on prevailing stereotypes".

Statistical data on the prevalence and impact of stereotypes imposed on women is of no analytical value unless it is anchored in biological sex. In Australia, laws allowing individuals to change sex markers on birth certificates by self-declaration have materially distorted official data, including statistics on sexual assault perpetration. A State party that cannot produce reliable, biologically grounded data cannot monitor discrimination against women, design effective policy, or report accurately to this Committee. This problem is compounded by paragraph 52(f), which calls for ''regular data and statistics collection'' as part of compliance monitoring but similarly does not specify that 'sex' means biological sex. Neither paragraph alone closes this gap; together, they represent a significant omission in GR 41's monitoring framework.

Recommendation: Paragraph 37 and paragraph 52(f) must both explicitly require that statistical and monitoring data be anchored in biological sex, not self-declared gender identity, consistent with States parties' existing obligations under Article 2 and General Recommendation No. 9.

Paragraph 43
Paragraph 43 requires the executive branch to ensure policies and institutional structures challenge stereotypes, and that women are well represented in leadership.

The paragraph makes no reference to the Article 7 obligation to ensure women's meaningful participation in the development of policies affecting their rights. In Australia, laws on sex self-declaration, amendments to anti-discrimination legislation, and sporting inclusion policies affecting women have been developed through processes that systematically excluded women's advocacy organisations while engaging LGBTQIA+ organisations from the outset. States parties cannot dismantle stereotypes affecting women without hearing from women.

Recommendation: Add explicit reference to States parties' Article 7 obligation to ensure meaningful consultation with women's organisations in the development of all laws and policies affecting women's sex-based protections and rights.

Paragraph 52
Paragraph 52 recommends temporary special measures to promote women's access to sectors where they are underrepresented.

The paragraph addresses professional and political access but is silent on female-only spaces and services — prisons, domestic violence shelters, rape crisis services, hospital wards, and sporting facilities — as lawful and necessary special measures under Article 4. In Australia, the absence of explicit statutory protection for female-only services has left their lawfulness unresolved. Female prisoners have been housed with biological males who self-identify as women, including males convicted of sexual offences against women — contrary to prior assurances given by the Australian Government to this Committee. Female prisoners petitioned for the removal of such individuals; authorities did not act.

Recommendation: Add an explicit statement that sex-based special measures, including female-only spaces and services, are lawful, necessary, and consistent with the Convention, and that States parties must ensure they are not displaced by gender identity claims.

Paragraph 56
Paragraph 56 addresses stereotyping in healthcare and recommends that States parties "decriminalise abortion and ensure affordable and comprehensive access to safe and quality abortion".

Two concerns. First, the abortion recommendation exceeds the scope of Articles 5 and 10(c) and GR 41's stated purpose. Abortion access is important but is addressed in other CEDAW instruments; its inclusion here dilutes the analytical coherence of this recommendation and introduces controversy that may impede its uptake. Second, the paragraph is entirely silent on the clinical and safety harms of de-sexed medical language — the replacement of 'women', 'mothers', and 'breastfeeding' with gender-neutral terms in reproductive healthcare settings. This practice causes dangerous confusion in sex-specific clinical contexts and is a direct product of gender identity ideology that GR 41 should address.

Recommendation: Add a provision on de-sexed medical language and its harms to women's health outcomes. Consider whether the abortion recommendation belongs in a different instrument, or is better expressed as a direct connection to the stereotype identified in paragraph 25 (motherhood as duty, not choice).

Paragraph 58(e)
Paragraph 58(e) recommends measures to "prevent and dismantle gender stereotypes which negatively affect the activities of women and girl human rights defenders".

This provision must explicitly protect feminist women who advocate for sex-based protections. In Australia, documented cases include: a senior academic subjected to repeated institutional investigations for research on sex-based protections; a child and

adolescent psychiatrist stood down from a public hospital for raising questions about gender medicine; a journalist dismissed for reporting on suppression of debate; an elected Member of Parliament expelled from her party for speaking at a women's rights rally; and a breastfeeding counsellor removed from her voluntary role for stating that only women can breastfeed. These women were targeted for speech entirely consistent with the Convention's framework. Without an explicit qualification, paragraph 58(e) is susceptible to being interpreted to exclude them — on the grounds that their advocacy is characterised as 'backlash' — from the very protection it is designed to provide.

Recommendation: Explicitly state that women who advocate for sex-based protections and rights, including female-only spaces and services, are entitled to the protections of paragraph 58(e), and that their advocacy must not be criminalised, suppressed, or penalised.

ADDITIONAL RECOMMENDATIONS

Surrogacy: GR 41 should include a dedicated provision in Section IV recommending that States parties address surrogacy as an institutionalised form of sex-role stereotyping, and consider abolition as consistent with their Article 5 obligations. There is no material distinction between commercial and altruistic surrogacy for the purpose of this analysis: the commodification of women's reproductive capacity and the structural power imbalance are present in both.

Hierarchy of rights: Section III should include an explicit statement, consistent with General Recommendation No. 28 and the position of the UN Special Rapporteur on violence against women and girls, that sex-based protections and rights under the Convention must not be subordinated to gender identity considerations.