

CEDAW Committee 84th session
General discussion on Equal and Inclusive Representation of Women in
Decision-Making Systems

European Network of Migrant Women Written Submission



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1. "Equal and Inclusive" Representation of Women in Decision-Making: What to Consider? The European Network of Migrant Women Approach

“Nowhere is the gap between de jure and de facto equality among men and women greater than in the area of decision-making.”

Report of the United Nations (UN) to the Fourth World Conference on Women in Beijing in 1995

Despite international commitments and obligations, in Europe and globally, the overrepresentation of men in decision-making positions remains blatant. In Europe, women represent only 33.4% of ministers, 33% of members of parliament and 29.4% of members of regional assemblies¹. The low participation of women - and migrant women in particular - in politics is determined by many factors, from legal and financial barriers to lack of awareness about the existing mechanisms. As a result, their interests are often poorly or not at all represented. This written submission will **examine the root causes of this gap and develop policy recommendations on how to bridge it.**

In order to improve women's, including migrant women's, representation in decision making, **a comprehensive discussion must take place:** beyond the action of voting or standing for election, our analysis will cover as many stages as possible (access to information, access to informal and formal participatory mechanisms, possibility to develop leadership skills in pursuit of particular priorities and outcomes, access to means for running a campaign, etc). Additionally, the analysis around women's representation in decision-making cannot be dissociated from the examination of institutions themselves, the very structure of power: **composition, operations, working methods, transparency**

¹ EIGE, Gender Statistics Database, WMID, 1st quarter 2022

and accountability, practices and standards, impact assessments, budgetary allocations... These aspects play an important part in women's ability to access decision-making spaces.²

The question of representation itself is very broad. Common understanding of "equal representation" remains merely quantitative. However, high numbers of female representation in decision-making spaces do not always translate into the ability for them to be heard and achieve concrete impact. Many **qualitative factors** are also needed to paint an accurate picture: proportion of each sex in leadership roles, participation by sex, including repartition of speaking time, presence of infrastructures to alleviate caring responsibilities, including the provision of child care, existence of formal mechanisms to report discrimination, sexual harassment and violence against women, repartition of portfolios, etc. Thus, **the European Network of Migrant Women promotes the concept of co-governance:** a model mixing "representative democracy" that focuses on the quantitative representation of all groups in society and "participatory democracy" that allows for qualitative inputs drawing on the experiences and aspirations of those represented. **Implementing both approaches has the potential to lead to more responsive and more accountable systems of governance.**

2. Migrant Women: Invisibility and Policy Gaps

“The right to participate in public affairs cannot be considered in a vacuum. The effective exercise of this right requires an environment where all human rights (...) are fully respected and enjoyed by all individuals.”

Guidelines for States on the effective implementation of the right to participate in public affairs, UNHCR

Many factors impede the ability of women to enter, remain and assume leadership positions in public life. For **women with migrant backgrounds these barriers grow exponentially as they are linked with their legal and (low) socio-economic status.** Policies on equality between women and men and non-discrimination are often practiced in a way that makes them incompatible. As a result, targeted actions designed to impact either women or migrants, coupled with the lack of relevant disaggregated data (IHREC, 2021) leads to exclusion of migrant women from the programs aimed at improving equal representation in decision-making. This is especially true when it comes to young migrant women, at the intersection of the "female", "migrant" and "youth" categories.

The **2021 Young Migrant Women's Political Participation report**³ highlights that women with migrant backgrounds are at **the intersection of several systems of discrimination**, and, as a result, suffer disproportionately from a variety of forms of exclusion. However, compared to their male counterparts, female migrants have been documented to show greater motivation for integration, networking as well as voluntary and civic engagement (EIGE, 2020, 2021; European Network of Migrant Women *SMART Volunteering report*, 2020⁴), it is therefore crucial to **design policy responses**

²OSCE (2021) *Realizing Gender Equality in Parliament: A Guide for Parliaments in the OSCE Region*. Organization for Security and Co-operation in Europe

³ European Network of Migrant Women (2021) *Young Migrant Women's Political Participation* available at https://usercontent.one/wp/www.migrantwomennetwork.org/wp-content/uploads/CEDAW_youngmigrantwomen_report_PRINT.pdf

⁴European Network of Migrant Women (2020) *Smart Volunteering For Migrant Women* available at [SMART VOLUNTEERING FOR MIGRANT WOMEN: REPORT – European Network of Migrant Women \(migrantwomennetwork.org\)](https://www.migrantwomennetwork.org/SMART-VOLUNTEERING-FOR-MIGRANT-WOMEN-REPORT)

that enable them to meaningfully exercise their right to participate in political life and decision-making, a basic principle of democracy.

The experiences of the members of the European Network of Migrant Women, grassroots organizations working day-to-day with migrant women in very diverse contexts, strengthen our analysis by providing us with first-hand testimonies of migrant women. One of them, **AkiDwA (Ireland)**, has **over two decades of experience working to promote migrant women's access to political life and decision-making**. Dr Salome Mbugua, chief executive of the organization and former co-chair of the European Network of Migrant Women, testifies that, while one in eight people in Ireland are from a migrant background, migrant women remain invisible in decision-making. According to her, migrant women face double obstacles as they have to deal with societal discriminations and pressure coming from their own communities. In addition, public institutions and political entities do not engage with migrant women. Candidate recruitment from political parties rarely includes them. **This creates an indirect discrimination**, as migrant women are not actively reached. While article 25 of the International Covenant on Civil and Political Rights (ICCPR, 1966) enshrines the rights of all citizens to “take part in the conduct of public affairs”, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) goes beyond this approach by placing a positive obligation on State parties to end discrimination on women access to decision-making. This is the approach Dr Salome Mbugua advocates for, as she **encourages the use of temporary special measures** which can be applied to address structural gaps and inequality.

Another member of ENoMW, **Por ti Mujer (Spain)**, also considers **CEDAW mechanisms to be an important leverage to push for a better representation of women in decision-making**. This Spanish organization is part of the “Plataforma CEDAW Ombra País Valencià”, a network of organizations which writes and submits shadow reports to the CEDAW committee on a regular basis (co-signed by 166 organizations). Amongst their diverse focus areas, they provide concrete recommendations to improve women's political participation with an intercultural perspective. According to Ana Muñoz, project coordinator of the organization, Spanish immigration policies and practices restrict basic human rights, including the right to civic participation.

3. Direct and Indirect Barriers to the Fulfillment of Women's Right to Participate in Decision-Making

“States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country”

Convention on the Elimination of all forms of Discrimination Against Women, United Nations, 1979

The effectiveness of the right to participate in public life is conditioned by the proper fulfillment of the universal rights to life, dignity, security, access to justice, the freedoms of assembly, association, expression, information, and the principles of equality and non-discrimination. Numerous **direct and indirect barriers** impede women's full enjoyment of these rights and, therefore, their participation in policy making, **in violation of articles 7 and 8 in conjunction with articles 5 and 14 of the CEDAW Convention**.

One of the main direct barriers faced by migrant women when in political participation is **Violence Against Women and Girls (VAWG), including online**. It is a pervasive and deeply rooted

phenomenon with numerous damaging consequences, including a deterring effect for women aspiring to become public figures. For (migrant) women a decision not to run for office can be linked to self-protective strategies that include an avoidance of situations where sexist, sexual and racist violence can arise. The potential for harassment and attacks, experiences of sexual harassment, fear of being assaulted (when canvassing, going door to door, speaking during rallies, etc.) have a consequent impact in preventing women from entering politics.

In addition, while **Information and communications technologies (ICTs)** offer new, developing, democratic and efficient entry points to political participation, they can also **negatively affect political participation of women** through the risks they entail. According to the **International Association of Women in Radio and Television (IAWRT) and the Gender Mainstreaming Project (2018)**, attacks on women, online abuse and harassment on social media have intensified over the years, while journalists and public figures have been particularly exposed to this type of violence. Harassment on social media for women constitutes an everyday routine occurrence. Repeated research documents that bullying victims suffer from a host of deleterious outcomes, such as low self-esteem⁵, emotional and psychological distress⁶, and negative emotions⁷. Several studies document that **the targets of cyberbullying are disproportionately women**⁸. Online aggression toward women usually tends to reinforce traditional feminine norms and stereotypes. It involves sexist slurs such as “*bitch*,” “*cunt*,” “*slut*,” or “*whore*”. The use of “replies,” “retweets,” and “likes” can further victimize a target.

For women with migrant backgrounds, the risk of becoming victims of VAWG when engaging in politics is multiplied. **The relationship of domination based on the social construction of “race” rests, like misogyny, on a dehumanization of the dominated group**⁹. Colonization has given rise to the production of erotic images and the **sexual objectification of racialized women and children considered “exotic”**¹⁰. Sexualization has been and remains an integral part of power relations and the justification of racist and sexual violence. Ethnic minority and migrant women face racism on top of VAWG and even more social exclusion than other women (McGinnity et al 2017). The structural and systemic aspects of racism and their intersection with other forms of oppression, including sexism, is recognised in Article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).

Migrant women also face specific direct barriers that infringe their right to political participation. For instance, **lack of (independent) legal status**. In some countries, legal status and family reunification policies have been designed in a way that creates structural dependencies which undermine women’s autonomy and agency. This worsens migrant women’s ability to engage in public and political life as they are maintained in situations of control and violence.

Women’s political participation is also hampered by a lack of financial means: when women run for election, their campaigns often receive less funding than their male counterparts. This issue is even more pressing for migrant women who have lesser access to formal employment and safe income-generation activities. As a result, they are more likely to have low socio-economic status (SES) and have less access to resources, with direct impact on their inclination to engage in

⁵ Hinduja and Patchin 2010

⁶ Ybarra et al. 2006

⁷ Faris and Felmlee 2014; Juvonen and Gross 2008

⁸ Backe et al. 2018; Felmlee and Faris 2016; Hinduja and Patchin 2010; Pew Research Center 2017

⁹ Alyssa Ahrabare, Lorraine Questiaux, Céline Piques “La pornographie, système mondial de violation des droits humains”, *Droits et Libertés* n°200, pp. 44-46, janvier 2023

¹⁰ Committee of Ministers to member states (2019) *Recommendation CM/Rec(2019) on preventing and combating sexism*

democratic processes. The SES includes different variables, such as education, income, housing and occupation all of which impact one's motivation and likeliness to vote.

Indirect barriers, including cultural ones, are also not negligible amongst the causes that prevent migrant women from actively participating in political life. **Through socialization, not nature, women and men are allocated different and unequal roles in society.** Women are assigned the private sphere, taking care of the home and family, while men are assigned the public sphere, running the affairs of society. Where women venture into public spaces they are expected to play roles similar to the home - that is nurturing roles. These social roles enable male violence against women and girls but also discrimination and exclusion of women from public and political spaces. When internalized, the injunctions become an even more impassable barrier to political participation. **Exclusion experienced by migrant women, either directly or vicariously, have a deterring effect on active engagement in formal and informal political spaces.** This phenomenon constitutes a vicious circle: the underrepresentation of women with migrant backgrounds in decision making leads to a lack of responsiveness of politics to their interests¹¹. **Such imbalance affects how women with migrant backgrounds feel about democracy and reinforces their perceptions that "politics is not for them"**. The lack of role models, the scarcity of peer-to-peer support and the pressure of being the "first" (in their community, in their family) to engage in political life exacerbates these dynamics. When entering new, unfamiliar and hostile political environments where they are likely to be discriminated against, excluded or discounted, and where they do not master the rules and codes, some women with migrant backgrounds testify seeing themselves as out of place, "space invaders" even¹². Without sponsorship and support, they are relegated to the margins of these spaces and processes¹³.

Furthermore, tokenism, the practice of recruiting a small number of people from under-represented groups in order to give the appearance of sexual or racial equality, without allowing them to exercise any type of influence, constitutes another blockage to (migrant) women meaningful participation in decision-making. **In legislatures in which women make up less than 15%, they are isolated and experience difficulties addressing women's interests without being marginalized by other legislators**¹⁴.

Another very serious obstacle faced by women in politics, with a dramatic impact on migrant women, is **the recent shift from women-specific terms, policies and programmes to sex-neutral ones that invisibilize and disregard women.** This encompasses the erasure of women from language (redefining women as "persons" with affixed bodily functions, such as "menstruating persons", "persons with wombs", etc) and law (including gender identity into the category of sex in anti-discrimination or replacing sex with gender/gender identity) along with the conflation of the terms "sex"¹⁵, "gender"¹⁶, "gender identity" and "gender expression" that are now used interchangeably. These processes take place with little to no transparency at the EU, CoE and UN/international levels¹⁷

¹¹ Crowder-Meyer 2021

¹² Puwar 2004

¹³ AkiDwA and The National Traveller Women's Forum (2022) *Different Paths, Shared Experiences: Minoritised Women and Local Politics in Ireland*

¹⁴ Thomas, S. (1991) 'The Impact of Women on State Legislative Policies', *The Journal of Politics*, Vol. 53, No. 4, pp. 958-976

¹⁵ "The term "sex" here refers to biological differences between men and women.", General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of CEDAW

¹⁶ "[Gender corresponds to] socially constructed identities, attributes and roles for women and men and society's social and cultural meaning for these biological differences resulting in hierarchical relationships between women and men and in the distribution of power and rights favoring men and disadvantaged women", General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of CEDAW

¹⁷ Feminists from Europe, Asia, North America, Latin America, and Africa, Feminists (2022) "The Erasure of Sex: The Global Capture of Policies on Sex by Gender Identity Activists and the Effects on the Rights of Women and Girls," *Dignity: A Journal of Analysis of Exploitation and Violence*: Vol. 7: Iss. 4, Article 1

and remain widely unchallenged by policy-makers, including treaty bodies who are entrusted to guard international human rights law, despite States' obligations under CEDAW and other frameworks to protect women from discrimination on the basis of sex - not sex roles and gender stereotypes.

The only European (Council of Europe) instrument that defines "gender" is the Istanbul Convention¹⁸. However, the term has acquired multiple meanings and is used indiscriminately by policy-makers and activists, and in new instruments, such as the European Parliament Directive on improving the women's representation among non-executive directors of companies, which refers to "persons of each gender", rather than explicitly naming "women" and "men". **This move from legally agreed upon language undermines the meaning of gender enshrined in the Istanbul Convention and CEDAW that addresses violence and discrimination against women from the perspective of unequal and gendered power relations between women and men.** Naturalizing gender, treating it in law as a category interchangeable with sex, leads to the normalization and aggravation of some of the main barriers to women's representation and participation in decision-making: sexist stereotypes, gender roles and male violence. In addition, it reinforces the invisibility of those barriers: **without clear categories of sex, inequalities between women and men (including related to decision-making) cannot be monitored.**

This very legitimate concern, shared by a consequent proportion of the women's rights movement¹⁹, has become increasingly complicated to express publicly. Affirming the existence of biological sex is too often seen as hate speech against people who identify as transgender. The term "TERF" (Trans-Exclusionary Radical Feminist) is used to insult, stigmatize, harass, intimidate and ultimately silence women who recognise that human biology and sexual dimorphism are not socially constructed, that it is scientifically impossible to change sex or that women have the right to self-organize on the basis of sex²⁰.

Jurisdictions globally introduced laws allowing persons to self-declare their sex and have it changed on all legal documents without any criteria other than their own will. This made it possible for men to avail of positive measures for women (e.g. quotas)²¹. The notion that biological sex is a construct and can be self-declared, whereas the nebulous concept of "gender identity" is innate, is derived from the activist manifesto Yogyakarta Principles²² and promoted globally by the UN SOGI Special Expert. **The demand of this document is the abolition of all records of sex from all legal documents²³ which constitutes a blatant attack on the rights of women and girls protected by CEDAW.**

4. Policy Recommendations and Principles for Consideration

1. Tackling Violence Against Women and Girls

Ensuring women's protection from VAWG is a key aspect of enabling them to access political participation. **Protecting and promoting existing legal frameworks, such as the Istanbul Convention and the CEDAW is key.** This should include a strong commitment to maintaining the

¹⁸ "gender shall mean the socially constructed roles, behaviors, activities and attributes that a given society considers appropriate for women and men", Istanbul Convention, Art 3 c)

¹⁹<https://sex-matters.org/posts/category/groups-defending-sex-based-rights/>

²⁰ examples of online and offline abuse: <https://terfisaslur.com>

²¹ Feminists from Europe, Asia, North America, Latin America, and Africa, Feminists (2022) "The Erasure of Sex: The Global Capture of Policies on Sex by Gender Identity Activists and the Effects on the Rights of Women and Girls," Dignity: A Journal of Analysis of Exploitation and Violence: Vol. 7: Iss. 4, Article 1

²² <https://yogyakartaprinciples.org>

²³ Yogyakarta Principle 31

current legally agreed upon language. Women must be explicitly named in texts aiming to tackle male violence against them or to correct persisting inequalities in every area of life. States should implement legislation on violence against women prevention and create specific offenses of sexual harassment, cyber harassment and sexist hate speech and ensure **access to justice** along with **effective remedies** for women victims of male violence. Procedures to access justice and other redress mechanisms should be **fair, equitable, timely, sensitive to women's needs and affordable**. States shall require compulsory Codes of Practice with **zero tolerance for male violence against women and girls, sexual violence and harassment, sexism and racism with sanctions for breaches and clear reporting channels both within political parties and political institutions**.

2. Upholding the Non Discrimination Principle

International mechanisms and national legal frameworks guarantee **equality before the law and prohibition of discrimination**. It is essential for the wellbeing of democracy that laws do not discriminate between different people and groups. This must be monitored through the design, implementation and evaluation of laws and policies. **Impact assessments shall be conducted regularly to ensure that laws do not directly or indirectly discriminate against women**. In addition, States shall actively ensure that **protected rights are accessible to all without discrimination**. **Effective remedies should be available if those rights are violated**.

Policy makers must pay particular attention to using terms that are well-defined, translatable and understandable. Such ill-defined and open to interpretation terms as “gender impact”, “gender transformative”, “gender expertise” must be avoided to make political participation of non-English speaking women meaningful and inclusive.

States shall ensure the full access and enjoyment of women, and women with migrant backgrounds, to their rights, including access to decent **employment**, to **housing**, to **education**, to **support services**, to **health** including mental health services and reproductive health.

Fair and clear immigration systems shall be enforced with **facilitated access to independent legal status** for women victims of male violence. **Clear pathways to regularization for undocumented women** and to citizenship for children shall be implemented.

Right to vote and stand for election at least at local level shall be granted to third-country nationals residing on the territory, regardless of citizenship status as it is the case in Denmark, Finland, Ireland, Lithuania, the Netherlands, Norway, Portugal, Slovakia, Spain, Sweden, six cantons in Switzerland and the United Kingdom.

3. Collecting and publishing disaggregated data to inform policies

The work of decision-makers must be informed by the **analysis of data that is disaggregated by sex and other intersecting factors such as age, ethnicity, legal status, religion, disability and sexual orientation**. Replacing “sex” as a comparator or indicator in data collection with other concepts should be avoided.

4. Adopting a dual approach for women and girls: mainstreaming women's rights combined with positive actions

Gender mainstreaming is a crucial part of ensuring that women's interests are considered in every area. However, on its own it cannot correct the deeply rooted structural inequalities between women

and men: **specific and positive actions²⁴ targeted towards women and girls are needed. Such measures should be continuously re-examined and evaluated to ensure equal participation and adequate representation of women in practice.**

5. Guaranteeing quotas and nested quotas

The implementation of quotas in decision-making is not a window dressing act but a special measure to correct historical injustices that prevent women from participating in politics. The core idea behind quota systems is to ensure that women are not only a few tokens in political life but that they rather constitute at least a "critical minority" of 30 or 40%. **Quotas must include specific requirements to actually lead to women being elected.** Hence, if a quota of 30 or 33 percent is set, it shall be specified that within each three-candidate segment of the list, at least one must be a woman. **Sufficiently dissuasive sanctions for parties that do not respect the rules are also needed.** Women with migrant backgrounds require tailored positive actions to ensure they have access to political office, **this is where nested quotas intervene: they specifically regulate the political inclusion of ethnic minority women**, tackling the tendency of treating women and ethnic minorities as distinct groups and overlooking the political position of ethnic minority women. Those who self-identify as women should not be allowed to participate in women's lists, quotas and other measures designed to remedy historic and structural inequalities between women and men.

6. Guaranteeing transparency and accountability within decision-making spaces

Achieving quotas of women in any given political institution does not ensure women's ability to fully participate, nor does it necessarily guarantee that the operations and resources of this institution are used effectively towards promoting women's rights and equality between women and men. To achieve such results, many substantive, structural and cultural issues must be acknowledged, analyzed, monitored and tackled. **National women's rights institutions should have the mandate and resources to receive complaints and to monitor, report and act on violations of all aspects of the women's right to participate in public affairs. An independent and impartial oversight mechanism should be established and able to monitor and report on the implementation of the right of access to information.** The reports of such a mechanism should be public.

7. Funding and supporting Women's Rights Organisations to ensure no woman or girl is left behind

Many women's rights organizations (WRO) provide training programs for women on the electoral and political systems and the various opportunities for participation. They also implement programs on violence against women and intercultural training for elected members and staff of political parties as well as public authorities. This work is crucial to challenge the pervasive misogynistic culture within decision-making spaces and achieve long-lasting impact. While women are put in competition culturally and materially through the scarcity of the opportunities they can access, WRO focus on building women-only safe spaces to allow them to build support networks and to capacitate each other. **States must adopt measures promoting the engagement and collaboration with WRO and fund their actions to bring about a shift in the norms and values restricting women's participation in public affairs.** WRO must be consulted in the design and implementation of any

²⁴ Positive action is a term used to define specific measures to eliminate, prevent or remedy persistent inequalities a group has faced for a long time. In 1984, the Council of Europe recommended adopting a positive action policy to eliminate existing inequalities between women and men. A guide on positive action towards women and girls was published by the European Commission in 1988.

positive actions. Women human rights defenders must be protected from all threats, attacks and acts of intimidation. **Women must not be prevented from self-organizing on the basis of sex and their freedom of expression and speech should be protected.**

8. Ensuring media's accountability

Accountability should apply to non-state actors with a role of information which are often perpetuating the harmful sexist stereotypes, gender norms and culture that prevent women's equal and inclusive representation in decision-making. **States must encourage and create the conditions for an independent and diverse media.** They should enact legislation that promotes and protects the freedom of the media, encourages pluralistic media services and ensures the safety of journalists, both offline and online, especially women who are particularly targeted by cyberviolence. In addition, **States must strengthen and provide legislation for media Codes of Practice on anti-sexist and anti-racist reporting, including a media fund to support positive representations of women and women with migrant backgrounds.** Media must also avoid misrepresentation of women and men, by, for example, reporting crimes committed by men as female crimes or mischaracterizing the women struggling to protect women's rights as discriminatory²⁵.

²⁵ see here example of "Bad Media Watch", a tool for monitoring and reporting unprofessional media reporting: <https://sex-matters.org/posts/updates/call-out-bad-media-with-our-new-tool/>