



CHALLENGING BARRIERS TO REAL EQUALITY

TRANSFORMATIVE EQUALITY

Ramona Biholar, PhD

University of the West Indies
Faculty of Law, Jamaica



STEREOTYPE = a generalized view or preconception of

- personal traits
- physical characteristics and appearances
- behavior and roles
- occupations, etc.

... that are or should be performed by the members of a particular group

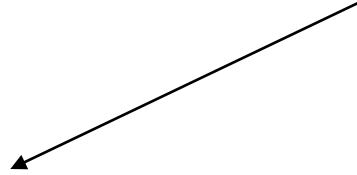


...creating expectations of how members of the group should be, act, behave

irrespective of

individual features, abilities, qualities, and circumstances.

GENDER STEREOTYPING = ascribes women and men to certain characteristics and roles, fixating in this way gender identities and roles



expectations of what are or should be appropriate

- Traits of women and men
- Behavior of women and men
- Roles of women and men



To the extent that gender stereotyping puts the individual in disadvantageous positions, it brings about discrimination.



Gender stereotyping can lead to:

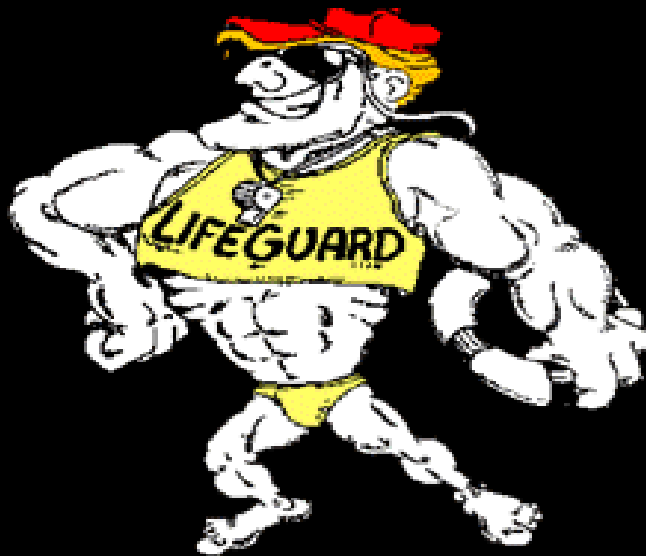
- Restriction of individual's capacity to make choices, take autonomous decisions and hold control over their own identities and lives

by

- Disregard for individual's contexts, characteristics, capabilities, needs, and wishes
- Confinement of individual's actual interests, needs, functions to certain expectations

Stereotyped gender roles

GENDER



Masculine



Feminine

Sex roles and gender stereotyping => gender-based violence against women

CEDAW General Recommendation 19, 1992
affirms:

“Traditional attitudes by which women are regarded as subordinate to men or as having stereotyped roles perpetuate widespread practices involving violence or coercion.”



Implementation: Lessons Learned from CEDAW Case-Law

Communication No. 18/2008, *Karen Tayag Vertido v. Phillipines*

- Re-victimisation of a victim of rape through a court decision which relied on gender stereotyping, such as
 - “the victim must be timid or easily cowed ... according to which women who are not timid or not easily cowed are less vulnerable to sexual attacks;”
 - “the fact that the accused and the victim are ‘more than nodding acquaintances’ makes the sex consensual;”
 - “when a rape victim reacts to the assault by resisting the attack and also by cowering in submission because of fear” negates lack of consent;
 - the victim should try to escape at every opportunity.
 - Court’s guiding principle for reviewing rape cases: “an accusation of rape can be made with facility”
- Such stereotyping led to the acquittal of the accused.
- The author based her complaint on expressly ***naming*** the stereotyping
 - The legal system can endorse gender stereotyping:
 - this Court decision institutionalised the ascription of women and men to specific behaviour and characteristics



Reality check

Jamaica

“In a long-standing patriarchal society, we grew up thinking that the man is the stronger sex and the woman is the weaker sex; that the man is the head of the household. These are attitudes that have been passed on from generation to generation. So, that is one underlying cause of violence against women, which hasn’t changed as much as we wanted to change over the years.”

Researcher’s interview, Jamaica Ministry of Justice, May 4, 2011



Reality check

Jamaica

“There is definitely a link between our cultural attitudes and behaviour and violence against women ... for us at our national level you find that the whole notion of what it means to be a man and what it means to be a woman will definitely impact gender-based violence and ... it is believed and said that if a man doesn’t beat a woman he doesn’t love her: women believe it, men believe it and as a society, sometimes we propagate it.”

Interview BWA, March 25, 2011 (1)



GBVAW under Art. 5 (a) CEDAW

CEDAW Concluding Observations on Jamaica, 2006, point to the persistence of :

“[...] strong patriarchal attitudes and deep-rooted stereotypes regarding the roles, responsibilities and identities of women and men in all spheres of life, which are discriminatory of women, underpins discrimination against women in many spheres, and condones gender-based violence and promiscuous behaviour by men.” (CEDAW CO Jamaica, 2006, para.13)

Concluding Observation on Jamaica, 2012,

“The Committee is further concerned that: a) Gender-based violence is reportedly widespread and cases are underreported due to the prevalence of social and cultural norms;”
(CEDAW CO Jamaica, 2012, para. 21, a)



Article 5 (a), CEDAW

States 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 the superiority of either of the sexes or on stereotyped roles for men and women;



Article 5 (a), CEDAW

Obligations under Art. 5 (a)

- To modify social and cultural patterns of conduct based on sex roles and gender stereotyping ⇔ to bring about social and cultural transformation

Rights under Art. 5 (a)

- Women's right to be free from discrimination emerging from ascribed sex roles and gender stereotyping



CEDAW - Agenda for Non-Discrimination & Equality

**The core objective of CEDAW:
Non-discrimination against women**

To be ensured through: (CEDAW GR. 25, 2004)

- *De jure/formal equality*
- *De facto/substantive equality*
- *Transformative equality or equality of transformation*



De jure/formal equality (Arts. 2 and 7 to 16, CEDAW)

State Obligations:

- To ensure full equality between women and men before and in the law:
- E.g., Implementing measures:
 - Incorporating the principle of equality of men and women, and the definition of discrimination in accordance to Art. 1 in the Constitution and/or national legislation;
 - Revising, amending, abolishing discriminatory laws;
 - Adopting appropriate laws that prohibit discrimination against women;

Individual Rights:

- Women's right to equal treatment before and in the law



***De facto/substantive equality* (Arts. 3, 4 and 24, CEDAW)**

State Obligations:

- To ensure actual equality between women and men

- E.g., Implementing measures:
 - Adopt concrete and effective policies and programmes in order to improve substantive position of women (CEDAW GR. 25, 2004, para. 7)
 - Adopt temporary special measures, i.e., quotas for participation in the public and political life (Art. 4)

Individual Rights:

- Women's right to equal opportunities



Transformative equality (Art. 5, CEDAW)

“The lives of women and men must be considered in a contextual way, and measures adopted towards a real transformation of opportunities, institutions and systems so that they are no longer grounded in historically determined male paradigms of power and life patterns. The position of women will not be improved as long as the underlying causes of discrimination against women, and of their inequality, are not effectively addressed.” (CEDAW GR. 25, para. 10)

State Obligations:

- To address prevailing gender relations and gender-based stereotypes (CEDAW GR. 25, 2004, para. 7)
- Requirement: structural change = alteration of those patterns of human relations, laws or structures that form or cause discrimination

Individual Rights:

- Women's right to be free from discrimination stemming from “prevailing gender relations and gender-based stereotypes”



Reality check!

Jamaica

Legal measures:

- The Domestic Violence (Amendment) Act, 2004
- Sexual Offences Act, 2009

Protection measures:

- Centre for Investigation of Sexual Offences and Child Abuse (C.I.S.O.C.A.)
- Victim Support Unit (VSU)
- 1 shelter in Kingston



Reality check! Jamaica

JCF Officer:

*“One of the dilemmas I think we face is that there are provisions under the law for people who are abused in an intimate setting to seek remedies, but a lot of **people don’t know how, don’t understand**. Again, it’s a lack of knowledge and education about how to use a restraining order for example.”*

(Biholar 2013, Interview JCF, 2011)

Rights Holders:

“a lot of tings happen to women and them no really know them rights”

“we don’t know enough our rights”

(Biholar 2013, FGD rights holders Kingston, 2011)



Reality check!

Jamaica

MOJ official:

“For a long time we had a problem getting our law enforcement people to regard domestic violence as something serious which requires action on their part.”

(Biholar 2013, Interview Jamaica MOJ, Legal Reform Unit, 2011)

Rights Holders (rural and urban areas):

“out there you go and report rape and police is going to rape you”

(Biholar 2013, FGD rights holders, women victims/survivors Jamaica, 2011)



Reality check!

Jamaica

Social beliefs that pose barriers to administration of justice and realisation of full equality:

“Go home, it’s a man-woman thing.”

“If he doesn’t beat me he doesn’t love me.”



Reality check!

Jamaica

People do not know about:

- The social harm emerging from social and cultural attitudes towards gender-based violence (GBV) in general, and violence against women (VAW) in particular.
- The acceptance of GBVAW = taken for granted social practice.

TRANSFORMATIVE EQUALITY

WHAT IS REQUIRED?

1. Action undertaken in an integrated fashion to create a strong equality infrastructure through:

- The law and the equal treatment before and in the law (*de jure* equality);
 - Policy, programmes addressing the substantive situation of women and the opportunities for a meaningful life (*de facto* equality);
 - The institutions and structures, ranging from family, school, church, to community and the State (legal system, police) in order to tackle entrenched mentalities (*transformative* equality).
-
- Identify, acknowledge and publicly expose/***name*** the harm produced by sex roles and gender stereotyping, such as GBVAW
 - Impartial, bias-free law, court decisions, legal procedures, policies = authoritative legal and policy ground for exposing the hidden negative experience of stereotyping as a recognised wrong, and determine the remedy

TRANSFORMATIVE EQUALITY

WHAT IS REQUIRED?

2. Embedded in a consciousness

- of the harm stemming from certain social and cultural patterns of conduct
 - of GBVAW
- **Education and gender-sensitive training** ⇔ Consciousness of the social harm and how to address GBVAW
- at the level of those that make and apply the law and the policy, Gov. officials, law-makers, judges, court personnel, police officers
 - at the individual level

TRANSFORMATIVE EQUALITY

WHAT IS REQUIRED?

3. Holistic approach towards transformative equality

- Collaboration between Government actors, civil society organisations and rights holders

Governmental ACTORS

Duty-bearers

All branches of the State apparatus are in a position to make efforts for transformative equality:

- Government
- Legislatures
- Courts of law, judges, law enforcement personnel and other public or governmental authorities at all levels – national, regional, or local
- National machinery for women: Bureau of Women's / Gender Affairs (BWA/BGA)

ACTORS

Civil society organizations (CSOs)

- Raise consciousness of human rights among rights holders
 - Raise consciousness of international human rights obligations among government officials
 - Advocacy and lobby at national and international levels
 - **Translators and transmitters of human rights ideas, values, norms**
-
- Facilitate reception, adaptation, and appropriation of human rights ideas
 - Facilitate that abstract human rights norms trickle down and benefit individuals
 - Contribute to creating an environment conducive to transformative equality

ACTORS

but also

Rights holders

Recipients of human rights ideas – individuals become cognisant of human rights ideas, values, norms

Translators of human rights ideas, values, norms

Transmitters of human rights ideas, values, norms

- Enable reception, adaptation, and appropriation of human rights
- Ensure that abstract human rights norms trickle down and benefit individuals
- Contribute to creating an environment conducive to transformative equality

Striving for Transformative Equality: Strategies



Photo taken and arranged by Ramona Biholar, courtesy Jamaica BWA

Striving for Transformative Equality: Strategies

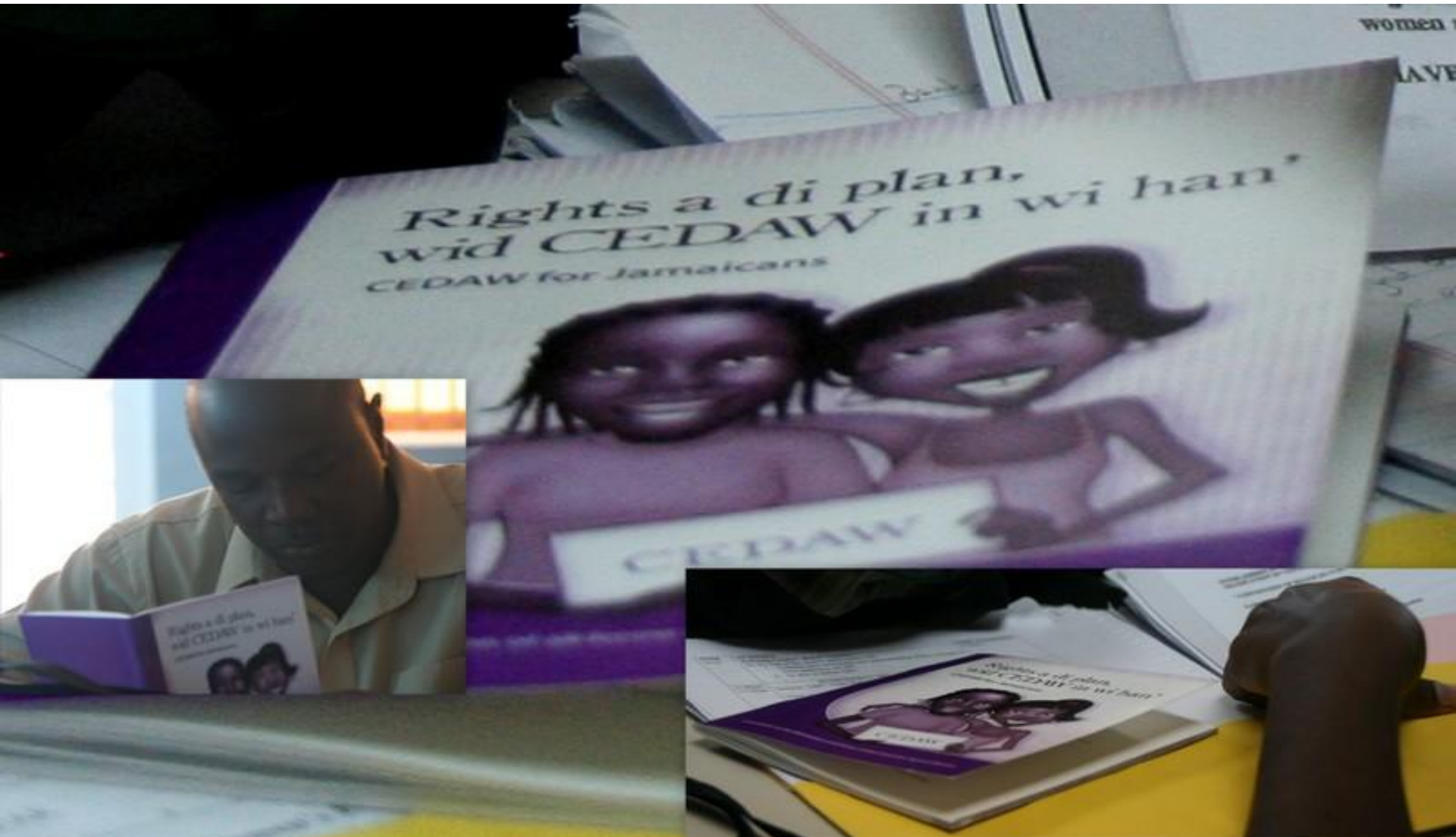


Photo taken and arranged by Ramona Biholar, courtesy WROC

Striving for Transformative Equality: Strategies

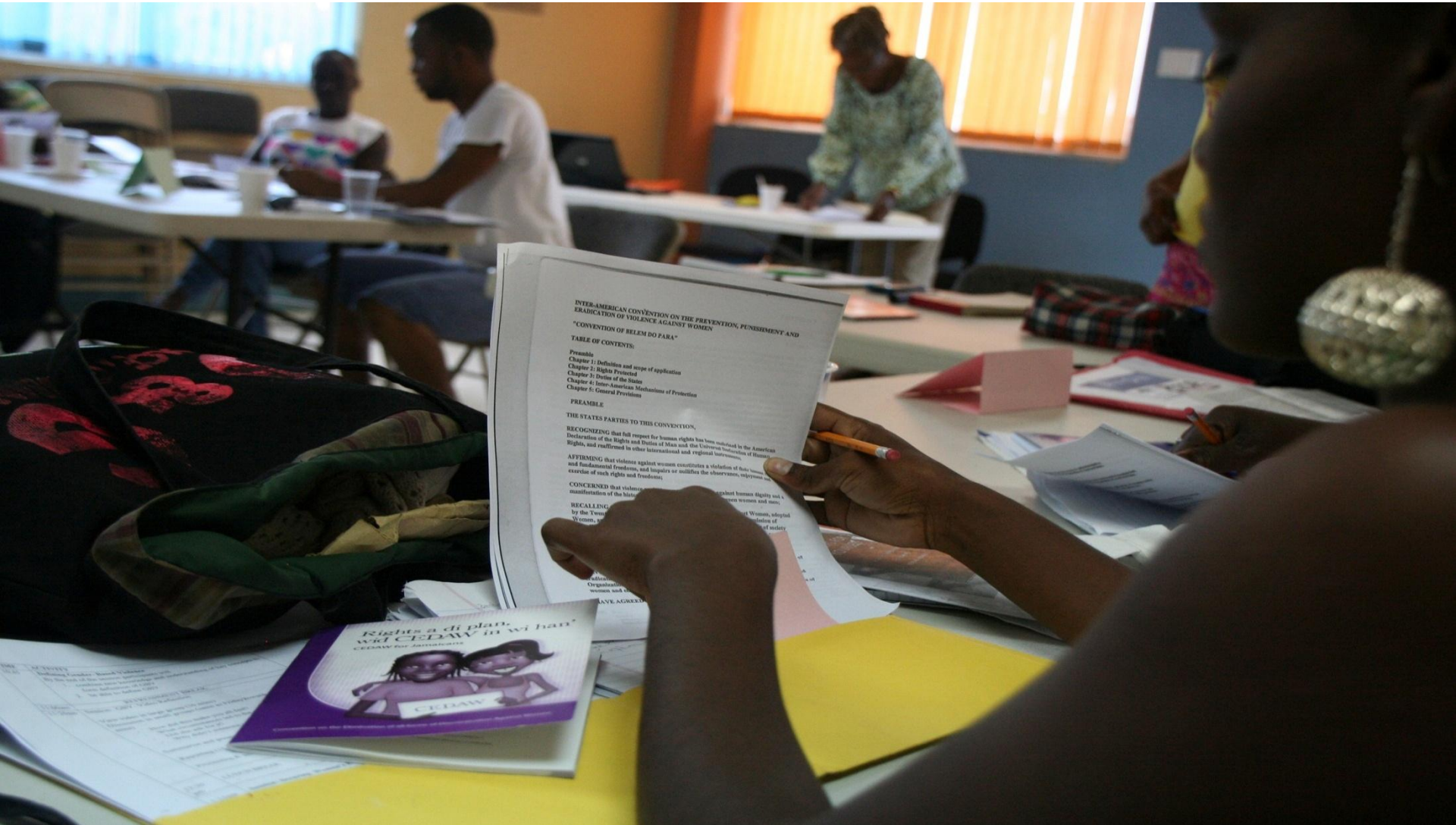


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TRANSFORMATIVE EQUALITY

WHAT IS REQUIRED?

5. Bringing media on board

6. Monitoring and implementing governmental agencies or departments, i.e., BWA, with adequate human and financial resources

7. Sustainability of action

THANK YOU!

ramona.biholar@uwimona.edu.jm