



4

Steps for judging with a

**GENDER
PERSPECTIVE**
in electoral matters



4

Coordinator:

Magistrada Mónica Aralí Soto Fregoso
Chair of the Gender Equality Observatory of the GNEJ

Co-authored:

Ann Ravel
Francisco Guerrero Aguirre
Guillermina Martín
María Noel Vaeza
Roxana Silva Chicaiza
Rumbidzai Kandawasvika-Nhundu
Simona Granata-Menghini

Mexico / october 2022.

Directory

Board of Directors of the Gender Equality Observatory of the Global Network on Electoral Justice (GNEJ)

Mónica Aralí Soto Fregoso, Justice of the High Chamber of the Electoral Tribunal of the Federal Judiciary (TEPJF, in Spanish) of Mexico, chair of the Observatory

Francisco Guerrero Aguirre, Secretary for Strengthening Democracy of the Organization of American States (OAS)

Rumbidzai Kandawasvika-Nhundu, Head of Participation and Representation of the International Institute for Democracy and Electoral Assistance (International IDEA)

Simona Granata-Menghini, Director/Secretary of the Venice Commission

María Noel Vaeza, Regional Director for the Americas and the Caribbean of UN Women

Ann Ravel, Professor of Law at the University of California at Berkeley, Member of the Scientific Committee of the GNEJ

Guillermina Martín, gender team leader a.i. Regional Bureau for Latin America and the Caribbean, United Nations Development Programme (UNDP)

4 steps for judging with **gender perspective** in electoral matters

Gender Equality Observatory



Acknowledgments

The Guide to Judging with a Gender Perspective in Electoral Matters is a collective work that reflects the joint effort made by members of the Electoral Tribunal of the Federal Judiciary, UN Women, the Venice Commission, the Secretariat for the Strengthening of Democracy of the OAS, International IDEA, UNDP and the University of California at Berkeley. Dialogue and harmony in working together were the principles that guided our activity in the elaboration of this work.

The contributions of the people who participated in its drafting were always aimed at strengthening its content and providing a global vision of the issues addressed. Our most sincere acknowledgement to them.

Presentation

This four-step guide to judging with a gender perspective arises from the need to provide mechanisms to those who impart electoral justice, in order to make decisions with a perspective of maximum protection of human rights where the gender category is involved. Hence, within the Gender Equality Observatory of the Global Network on Electoral Justice, at the proposal of its chair, the idea of drafting the document arose.

During its elaboration, the work involved an important effort due to the complexity of finding common points among the national legal systems of the countries that participated in this organization. For its integration, we took into account rulings of national and international courts, analyzed good practices of different countries, specialized doctrine and national manuals where the gender perspective has been applied in other matters.

It is worth noting that this is the first guide for judging with a gender perspective in electoral matters, so we can affirm that it is an unprecedented work. Although it takes up some general lines of protocols or manuals on other matters, focuses on the specific field of the protection of the political and electoral rights of women and other gender identities.

The objective of this document is to provide tools for judges to use, on a daily basis, the gender perspective as an analytical method and to guarantee the political and electoral rights of women without risks or affectations to their dignity. This is because the implementation of

measures to protect women's rights is an obligation that we, the authorities, cannot avoid.

Thus, given the increase in cases of discrimination and violence against women who seek to exercise their rights of participation and access to public office, as well as the complexity of the issues due to the variables derived from them and the resistance of the patriarchal system, it is essential that there be a methodology to assist in the identification and diagnosis of the facts, in the analysis of the applicable law, to argue and make decisions that protect the rights of women with an international standard, eliminating stereotypes and cultural and social barriers that prevent them from exercising their rights.

Thus, today we make this guide available to you so that it becomes a simple and agile working tool that can be used by judges and, in turn, can be consulted by any other person who requires it, including women's rights advocates or other users or victims of violence.

Our expectations of this tool are based on resolving possible doubts and practical problems that may arise in the study of a case, as well as enriching the vision of the judges in order to identify situations where there are imbalances of power, contexts of violence or inequality.

For this reason, in this project we placed special emphasis on presenting the methodology in a simple and accessible language that can be used by any judge, regardless of the specificities of the national legal system in which they find themselves.

The idea is to analyze legal problems with violet glasses, where the contexts of inequality are evidenced and from there, the necessary legal measures are detected and adopted to achieve substantive or material equality.

We start from a transformative vision of law, where legal operators can have an impact on the dismantling of the patriarchal system, the empowerment of women and the achievement of parity democracy free of violence.

This contribution gathers accumulated jurisdictional experience, case-law and doctrinal development in the field, with the final objective of accelerating the modification of social and institutional practices that make effective judicial protection of women's rights effective in all countries, through these four steps that assist the judicial function.

These are minimum elements that, if taken into account by legal operators, will yield visible results in the fight against gender-based discrimination and violence.

No effort is too little in our duty to dismantle and eradicate inequalities and violence, no person should be left behind in the exercise of their rights, so I invite you to consult and apply this guide and, above all, to act with sensitivity and empathy in these cases.

Justice Mónica Aralí Soto Fregoso
Chair of the Gender Equality Observatory
of the GNEJ

Contents

Preamble	10
Step 1: Situational analysis of the facts	14
1.1. Violet vision: the essential glasses for legal analysis.....	14
1.2. Identification and diagnosis	14
1.3. Definition of the problem, target population and beneficiary population in an objective way	15
1.4. Government and external agents.....	16
1.5. Analysis of the facts.....	16
STEP 2: Rights (determination of applicable law)	20
2.1. Gender reason	20
2.2. Gender Violence	21
2.3. Identification of stereotypes.....	21
2.4. Recharacterization of the law	22
STEP 3: Argumentation with a gender perspective	26
3.1. Identify the essential content of the human rights involved	26
3.2. Application of argumentative tools	28
STEP 4: Decisions.....	36
4.1. Determinations during the trial proceedings.....	36
4.2. Final process determinations	37

Preamble

The work performed by those who impart justice is somewhat difficult, since it leads to the adoption of a decision that, in most cases, will only be in favor of one of the parties to the conflict. On that basis, it is possible to estimate that the ruling that is directed to support the pretension of a woman or victim, related to the exercise of her political and electoral rights, must be sufficiently solid, especially if it is within an appealing chain and there is the probability that it will be submitted to the scrutiny of a higher instance.

With the purpose of resolving the issuance of a ruling that is made with a gender perspective, the following is presented, in an executive manner. The development of the basic steps to fulfill that purpose.

4

STEP 1

Situational analysis of the facts

The participation, if any, of the State and/or public and private persons who may have had some kind of direct or indirect involvement in the event(s) shall be identified, so that responsibilities may be clarified.

STEP 1: SITUATIONAL ANALYSIS OF THE FACTS:

The participation, if any, of the State and/or public and private persons who may have had some kind of direct or indirect involvement in the event(s) shall be identified, so that responsibilities may be clarified.

IDENTIFICATION AND DIAGNOSIS

Verify compliance with the procedural requirements for the initiation of the action and contextual analysis of the facts.



VIOLET LENSES

To highlight the inequality of women in the exercise of their political rights.

DEFINITION OF THE PROBLEM, TARGET POPULATION AND BENEFICIARY POPULATION

Assessment of the environment in which the violation occurs (data collection) and of the people affected. Asking key questions.



AGENTS

(GOVERNMENT AND
EXTERNAL)

Establishing the people and institutions involved. Asking key questions.



ANALYSIS OF THE FACTS

Determine the degree and condition of gender inequality of the parties, general aspects and context.



Step 1: Situational analysis of the facts

The participation, if any, of the State and/or public and private persons who may have had some kind of direct or indirect involvement in the event(s) shall be identified, so that responsibilities may be clarified.

1.1. Violet vision: the essential glasses for legal analysis

Analyzing the legal problem with violet glasses is a metaphor for a critical study of the law based on gender relations, in order to highlight the inequality experienced by women in exercising their political rights. This enables an empathetic vision to detect scenarios of discrimination and subordination, derived from the reproduction of roles and stereotypes. The gender perspective and the use of violet glasses are associated concepts that allow the identification of patriarchal ideas and androcentrism, as well as to welcome and prioritize women's needs and deconstruct those of men. The violet vision is a way to achieve women's equality and a mandatory practice in the jurisdictional work and the protection of human rights.

1.2. Identification and diagnosis

The analysis of compliance with the procedural requirements for the initiation of the action will consider that the omission of formalities by the plaintiff woman

will not impede her access to justice, since the authorities know the law and must apply it. The perspective of the context will make it possible to identify facts, conducts or discourses that frame the phenomenon under study, perceiving it in an integral manner, without isolating it from other concurrent facts, which serve for its adequate understanding.

1.3. Definition of the problem, target population and beneficiary population in an objective way

The following elements, among others, which are not limitative, will be evaluated: **a) The environment in which the alleged electoral infraction takes place.** To take a position and analyze the conflict, socio-political data will be collected to make visible the situation of the person individually considered, as a member of an excluded group; not only from the idea of non-discrimination, but also from the segregationist and excluding treatment that consolidates the situation of the marginalized group. **b) The person/s against whom the rights are violated.** The identity of the victim and/or complainant and any other data or information that could identify the plaintiff should be safeguarded, and suspicious categories that could lead to a situation of inequality and discrimination should be considered.

It is advisable to ask some key questions to identify possible power relations, inequality or subordination, as well as to define the situations in which the event occurs.

1.4. Government and external agents

It is essential to establish who is the victim and who are the persons and institutions that would have the duty to guarantee the rights claimed; and consequently, to determine the concurrence of the violated rights to guarantee electoral justice. It is recommended to ask some fundamental questions related to government agents and external agents.

1.5. Analysis of the facts

The objective is to determine the degree and condition of inequality of the parties for reasons of gender (discrimination or subordination): **a)** Regarding the subjects involved, to identify any unbalanced power relationship and the person who is in a situation of vulnerability or inequality; and **b)** Regarding the facts, they will be analyzed and interpreted without discriminatory stereotypes, social prejudices and in accordance with the context of inequality that is present.

This is done by addressing: 1st Level. General Aspects, in which the particular circumstances of the persons in the trial are identified, with the objective of situating the case in situations of inequality, discrimination or subordination of a given population sector; and 2nd Level. Context level: which involves visualizing women in their reality. To this end, an intersectional approach will be considered, as well as the general and particular context of the facts.

The existence of asymmetrical power relations or contexts of structural inequality based on sex, gender or sexual preferences/orientations, among other factors, is what determines whether or not the gender perspective is applied in a case.

STEP 2

Rights (determination of applicable law)

The issuance of any resolution or ruling that addresses issues related to the exercise of women's political and electoral rights requires, in order to be valid, a legal framework that supports the meaning of the decision to be adopted.

The intersectional approach is a fundamental tool for identifying and defining the applicable right, since knowledge of the natural circumstances (inherent to her person) and social circumstances (related to her environment) that converge in each woman, leads to characterizing the factors of inequality, discrimination and subordination and, as a consequence, the selection of the rights violated. Judging with a gender perspective requires the analysis of facts and, then, the verification of the norms that are useful or pertinent to the case.

STEP 2 / RIGHTS (DETERMINATION OF APPLICABLE LAW)

The issuance of any resolution or ruling that addresses issues related to the exercise of women's political and electoral rights requires, in order to be valid, a legal framework that supports the meaning of the decision to be adopted.



DETERMINATION OF APPLICABLE LAW

Delimit the applicable right(s) through an intersectional approach with a gender perspective.



TOOLS FOR DETERMINING THE APPLICABLE LAW

GENDER REASON



Identify whether the events occurred because it was a woman (gender roles and power asymmetry).

GENDER VIOLENCE



To dimension the case and its consequences and effects, identifying the victims and victimizers.

STEREOTYPES



Identification of stereotypes from symptoms or indicators of stereotyping.

RECHARACTERIZATION OF THE LAW



Analysis of the legal standard from the standpoint of equality to incorporate women in their fair reality.

STEP 2: Rights (determination of applicable law)

The issuance of any resolution or ruling that addresses issues related to the exercise of women's political and electoral rights requires, in order to be valid, a legal framework that supports the meaning of the decision to be adopted.

The intersectional approach is a fundamental tool for identifying and defining the applicable right, since knowledge of the natural circumstances (inherent to her person) and social circumstances (related to her environment) that converge in each woman, leads to characterizing the factors of inequality, discrimination and subordination and, as a consequence, the selection of the rights violated. Judging with a gender perspective requires the analysis of facts and, then, the verification of the norms that are useful or pertinent to the case.

In order to judge from a gender perspective, the following tools are useful, by way of example:

2.1. Gender reason

Define whether the facts surrounding the case occurred because it is a woman. If so, the central point is to determine whether the cause of a woman's situation is due to that condition, for which gender will be considered as a cross-cutting issue to guide the analysis of the case. Once the cause has been determined, the next step will be to identify how it operates in similar cases, in order to

detect the existence of a general situation of inequality in which the affected person finds herself, since in general, cases of oppression or inequality are part of a complex differentiated scheme aimed at preserving the segregation of women for reasons of gender.

2.2. Gender Violence

This type of violence originates on the basis of a person's gender. Article 1 of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women defines it: as any action or conduct, based on gender, that causes death or physical, sexual or psychological harm or suffering to women, whether in the public or private sphere. The identification of gender-based violence allows for the dimensioning of the case and is especially useful in terms of argumentation and reparations.

2.3. Identification of stereotypes

Stereotypes assign certain roles to people based on their sex. In the case of women, the assignment of certain stereotyped roles implies that socially they behave in a certain way, unlike men. Law does not escape from gender stereotypes, so the use of this tool consists of identifying and disarticulating the stereotypes present in the law, to prevent them from guiding the decision of the matter and, with it, the perpetuation of gender roles.

Some symptoms or indicators of stereotyping are: judgment based on categories, evaluation of

qualifications or credentials based on tangentially relevant information, selective perception and interpretation, and extreme judgment or evaluation based on limited evidence.

2.4. Recharacterization of the law

In order to determine whether a given provision or legal institution is capable of incorporating women into the legal discourse, the reading of the law must be based on equality. Recharacterization implies the interpretation of legal norms and rights in such a way that they incorporate women in their true reality within the legal discourse. This tool applies to every human right and every provision, in order to recognize inequality and protect women's rights. The recharacterization of the right requires an intersectional approach, in order to cover more broadly the various causes that hinder the exercise of their rights.

Rights must be read in a gender perspective, on the assumption that all law applies and is useful for protecting the fundamental prerogatives and rights of women, to the extent that they are interpreted and applied from a gender perspective.

4

STEP 3

Argumentation with a gender perspective

The essential content of any resolution or judgment is the presentation of reasoning to demonstrate the violation of women's rights, whether individual or collective, as well as to justify the meaning of the determination made.

Therefore, it is essential to identify some of the argumentative tools that will support the elaboration of a decision with a gender perspective.

STEP 3 / ARGUMENTATION WITH A GENDER PERSPECTIVE

The essential content of any resolution or judgment is the presentation of reasoning to demonstrate the violation of women's rights, whether individual or collective, as well as to justify the meaning of the determination made, the essential content of any resolution or ruling is specified.

Identify the essential content of the human rights involved

General obligations in human rights matter

Weighting of rights

Differential impact assessment



Application of argumentative tools



PRO-PERSONA PRINCIPLE



CONFORMING INTERPRETATION



CONTROL OF CONSTITUTIONALITY AND CONVENTIONALITY



EVIDENTIARY EVALUATION FROM A GENDER PERSPECTIVE



APPLICATION OF THE RECHARACTERIZED LAW



EMPATHETIC LEGAL ANALYSIS WITH GENDER PERSPECTIVE

STEP 3: Argumentation with a gender perspective

The essential content of any resolution or judgment is the presentation of reasoning to demonstrate the violation of women's rights, whether individual or collective, as well as to justify the meaning of the determination made.

Therefore, it is essential to identify some of the argumentative tools that will support the elaboration of a decision with a gender perspective.

3.1. Identify the essential content of the human rights involved

The essential content of human rights is to evoke the idea of the very foundation of the essential prerogatives of people, both individually and socially. In this case, the intersectional approach provides a broad reference point for the possible causes that hinder a woman's exercise of her rights as an individual or as part of a social group. This content is linked to the idea that there are rights that belong to all people by virtue of the fact that they are human beings and, therefore, human dignity is an essential human right that must be guaranteed by all States.

Once the parties in controversy and their context have been located, the rights in conflict will be determined, as well as the good, benefit, authorization, etc., that the

positive norm seeks to guarantee. In the case of the gender perspective, the starting point is the premise that we are dealing with a group in a situation of vulnerability for which it is essential that the State respect, protect and guarantee the adequate exercise of their rights.

a) General obligations in human rights matter. It will be taken into account that there are general human rights obligations aimed at promoting, respecting, protecting and guaranteeing the human rights of individuals, based on the rights involved.

b) Weighting of human rights involved. In some cases, a weighing exercise of the rights involved will be carried out, taking into account the asymmetries of power existing between the parties. The scope of the rights vis-à-vis the limitations imposed will recognize that there are gender inequalities between the parties, which will be considered in the weighing exercise.

If it is assumed that the norm is neutral, its scope will be considered, guaranteeing the exercise of rights without discrimination, since the gender perspective implies judging by considering situations of imbalance that, due to gender issues, prevent equality between people. The implementation of this specialized vision will be carried out.

c) Differential impact assessment. It is advisable that the argumentation reflect the justification of the norm that is more protective, which implies clearly indicating the reasons why the application of a norm to the specific

case results in a differentiated impact to the detriment of one of the parties due to discrimination or violence.

The demonstration of the existence of a differentiated impact based on the category of gender requires arguing the repercussions that an act, omission or provision produces on the victim, as well as the actions aimed at a solution in accordance with the context of inequality.

This differentiated impact analysis is a different way of observing human rights in terms of equality and non-discrimination, so that the argumentation with a gender perspective will reveal the impact of norms drafted in neutral terms and their negative impact on the exercise of rights.

3.2. Application of argumentative tools

Traditional argumentative tools will be used through an approach of maximum protection of human rights.

a) Pro persona principle. In the case of the gender perspective, this principle implies that the person imparting justice will choose to prefer the application of the norm that grants a greater benefit to the person or group that is in a disadvantaged situation or that grants a greater benefit or implies a lesser restriction.

b) Conforming interpretation. It is based on the principle of preservation of the law, so that the judge will avoid, as far as possible, an insurmountable contradiction between the rule to be applied and the Constitution. Thus, the

application of the law will be in accordance with the content of the national constitution and the international treaties to which the State is a party. Conforming interpretation, as an argumentative tool, is effective in the case of women's human rights, since the norms must be adjusted to the constitutional framework. Therefore, the interpretation must be in accordance with the rights of equality and non-discrimination.

c) Control of constitutionality and conventionality. Its purpose is to verify that the challenged or applied norm conforms to the parameters of constitutional or conventional regularity in the field of human rights. The method consists in the fact that, if the norm does not admit an interpretation in a broad or strict sense, it will be subjected to a proportionality test that verifies the legally legitimate purpose, as well as the necessity, suitability and proportionality to achieve it, and if a satisfactory solution does not result in accordance with the system, the no application will be decreed. This control mechanism favors the gender perspective to the extent that it makes it possible to expel from the regulatory framework those provisions that are contrary to women's human rights, through the direct application of the content of the Constitutions and international treaties.

d) Evidentiary evaluation from a gender perspective. Judging with a gender perspective will examine the presence of stereotypes or procedural imbalances in the evaluation of the evidence, allegations of the parties and their claims. First, the compilation of the evidence will

verify whether the existing evidence in the file is sufficient and useful to demonstrate the existence of gender inequality or whether it is necessary to order other evidence to make the imbalance between the parties visible; and, second, the argumentation related to the evaluation of the evidence will verify whether the condition of vulnerability of the parties based on gender is taken into account and that stereotypes are not reproduced in it.

The reversion of the burden of proof to the denounced party, in cases of violence, maximizes the rights of women in a context of structural discrimination, when an asymmetrical relationship of power is observed between the parties regarding the evidential proximity of the fact.

e) Application of the recharacterized law in relation to the facts. The recharacterization of the law and its application means interpreting it in accordance with the principle of equality, without disregarding the principle of certainty and legal security. Applying the law with a gender perspective means that, once its essential content has been identified, an interpretative criterion will be adopted that guarantees the principle of equality, promotes the political participation of women and eliminates any discrimination based on gender, in such a way that the useful effect of the interpretation of the norms and their purpose is not restricted. This way of applying the law is justified because despite the enormous conventional, constitutional and legal framework on non-discrimination and the right to live a life free of violence, its application has overcome the

obstacles that prevent certain groups from effectively enjoying their rights.

f) Empathetic legal analysis with gender perspective.

Empathy is the capacity to understand the feelings and emotions of others, based on the recognition of the other as similar. Empathy as a valuation parameter requires that the judge develop the capacity to place him/herself in the situation of the individuals, being able to understand them and carry out an analysis not only from a normative point of view but also from a socio-cultural one, in order to identify biases of inequality in the exercise of political rights, find the situation that generates distinctions and express it in the rulings. An analysis carried out in accordance with an empathic approach will be based on the fact that the mainstreaming of the gender perspective is key, since it makes visible and takes into account the environment of inequality between genders; to appreciate in its real dimension the power relations and the imbalance in which they are framed; and outlines that the electoral jurisdictional intervention achieves equality in the exercise of political rights between women and men.

In order to carry out an empathetic analysis with a gender perspective, it is suggested to follow certain steps in the argumentation:

- Evidencing the inequalities detected. The argumentation of the case will focus on showing which are the inequalities between the parties, in what way they generated an impact on the victim

or vulnerable person and how the application of the norms in neutral terms harms her and makes it impossible for her to exercise her rights under equal conditions. The intersectional approach is a basic tool for this purpose. In this sense, considerations related to the existence of inequalities or imbalances support the decision and the adoption of measures to reduce inequality gaps or the generation of violence.

- Combating the existence of stereotypes or inequalities in rules, performances or evidence. The application of argumentative tools is essential for the application of the law and the evaluation of evidence to eliminate any bias based on the gender of the parties and, in this way, favor the elimination of structural barriers to access to justice for women and disadvantaged groups.
- Prevent revictimization. When a person who has been subjected to a situation of gender-based discrimination or violence appears before the authorities, it will prevent her from being again the victim of unfair treatment or being criminalized for the same fact or act that she intends to denounce or sue. The principles of the best interest of the victim and due diligence are guiding principles for the issuance of acts of authority.
- Setting precedents in matters of gender perspective. The application of the law by those who judge generates precedents that help to build respect for human rights. The importance

of precedent related to the argumentation of the gender perspective paves the way for similar precedents and encourages those who judge to apply them.

- Inclusive language. Language is a factor that determines cultural and social attitudes, so using inclusive language promotes equality and combats gender bias.

STEP 4

Decisions

The response or solution expressed, as a consequence of a lawsuit that raises the transgression of political and electoral rights to the detriment of a woman, is configured as the work for excellence of the person imparting justice.

STEP 4 / DECISIONS

The response or solution expressed, as a consequence of a lawsuit that raises the transgression of political and electoral rights to the detriment of a woman, is configured as the work for excellence of the person imparting justice.

DETERMINATIONS DURING THE TRIAL PROCEEDINGS

PRECAUTIONARY MEASURES

Aimed at safeguarding the physical integrity of the woman or victim.



PRECAUTIONARY MEASURES

Aimed at avoiding any risk that could impede the proper development of the process.



FINAL PROCESS DETERMINATIONS

SCOPES

Decide on the exercise of women's and victims' rights within the framework of the principle of equality.

COMPREHENSIVE REPARATION MEASURES

Order actions in favor of women and victims aimed at satisfaction, rehabilitation, restitution and non-repetition.

PUBLICITY OF RULINGS

Disseminate decisions involving the study of violations of women's rights.

RULLINGS FOLLOW-UP

To achieve compliance with decisions, removing any obstacle that prevents it.

STEP 4: Decisions

The response or solution expressed, as a consequence of a lawsuit that raises the transgression of political and electoral rights to the detriment of a woman, is configured as the work for excellence of the person imparting justice.

Resolutions or rulings are classified as interlocutory and final: the former resolve some incidence during the trial and the latter decide the merits of the controversy.

4.1. Determinations during the trial proceedings

a) Precautionary Measures. In order to comply with an effective judicial protection and due process, the justiciable persons have the right that the courts grant them the necessary protection in order to resolve or prevent conflicts in a timely manner. Preventive protection is aimed at preventing damages; it intends that whoever is potentially in a position to cause them, stop performing conducts that eventually have the possibility of being illegal, or to force the assumption of some form of precaution that eliminates the possibility of the injury taking place. Preventive protection lies not only in stopping a behavior that causes harm, but also in taking sufficient protective measures so that such harm is not caused, avoiding behaviors that may be illegal. Therefore, it translates into a protection that opposes the danger that the illegal act or omission continues or is repeated,

in order to prevent an act or omission that contravenes the applicable rule. The following are requisites for its issuance: **a.** The possible transgression of a right of which the protection is requested in the trial or appeal; and **b.** The well-founded fear that, while the effective judicial protection is achieved, the factual circumstances required to obtain a favorable resolution, related to the right whose transgression is claimed, will disappear.

b) Protection Measures. They are based on various international treaties and constitute acts of urgent application based on the best interests of the victim. They are essentially precautionary and cautionary, and are granted by the competent authority immediately upon learning of facts that probably constitute offenses involving violence against women.

4.2. Final process determinations

They are issued upon resolution of the merits of the dispute.

a) Scope of rulings. In matters related to gender issues, the effects of the rulings will benefit women at all times, in order to achieve material equality, not only formal equality, and to end the discrimination they have suffered, including in the political sphere.

b) Comprehensive Reparation Measures. It includes the different ways in which state organs can comply with the obligations arising from their responsibility for human rights violations. These include measures of satisfaction,

rehabilitation, restitution and non-repetition. The effect of the rulings will be the restitution of the rights that have been violated. If it is not possible to materially carry out restitution, a different reparation measure will be chosen, considering the constitutional and conventional duty to achieve full reparation for those who have obtained a favorable ruling.

Restitution seeks to return the victim to the situation prior to the commission of the crime or the violation of his or her human rights. Rehabilitation seeks to enable the victim to cope with the effects suffered as a result of the punishable act or human rights violations. Compensation is to be awarded to the victim in a manner appropriate and proportionate to the gravity of the punishable act committed or the human rights violation suffered and taking into account the circumstances of each case. It shall be awarded for all economically assessable damages, suffering and losses resulting from the crime or human rights violation. Satisfaction seeks to recognize and restore the dignity of the victims. Non-repetition measures seek to ensure that the punishable act or violation of rights suffered by the victim does not happen again.

c) Rulings Follow-up. According to the doctrine, the enforcement of rulings is the most important phase of the proceedings, given the importance for the parties to achieve the materialization of the right declared in their favor, so it is up to the courts to observe its correct observance and enforce the ruling in case of non-compliance. The right to effective judicial protection is

not limited to declaring the right in rulings, but also to achieving its compliance, for which the courts must remove any barrier that prevents it.

d) Publicity of rulings. Institutional transparency is an indicator of the quality of governmental acts and decisions, and a basic prerequisite for citizens to access information and exercise their participation in decision-making. Publicity of all jurisdictional rulings acquires special relevance for citizens, as it is an institutional action that allows them to know the meaning of agreements and rulings, as well as the imposition of sanctions and the taking of measures in the event that political rights have been violated to the detriment of women.

4 steps for judging with **gender perspective** in electoral matters

Gender Equality Observatory



4