

RECOGNIZING
RIGHTS
PROMOTING
PROGRESS



THE GLOBAL IMPACT OF THE CONVENTION OF THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

C E D A W



RECOGNIZING RIGHTS PROMOTING PROGRESS

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INTRODUCTION

When women participate in political, economic and social life, they promote the health, well-being, prosperity and security of their families, communities and nations. In order for women and girls to contribute fully toward the creation of a better world, it is imperative that their needs are met and their rights are secured — to live a life free from violence and discrimination, to be educated, to work, to be healthy, and to participate in public life.

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) provides an important tool for countries to use in realizing the potential of women and girls. In the three decades since this Convention was adopted by the United Nations and ratified by 186 of 193 nations, countries have decided to incorporate CEDAW principles in their national constitutions, legislation and administrative policies. Countless civil society organizations and individual women have relied on the principles of the Convention to improve the lives of women and girls. This paper describes some examples of the impact CEDAW has had around the world, with the purpose of informing the public conversation in the United States about the Convention. Because of the broad scope of the Convention, and the diversity of ways it has been implemented and evaluated in many different contexts, this paper does not attempt to cover every country or address every theme. Instead, it focuses on select cases and countries where CEDAW ratification and implementation have led to concrete changes in the opportunities afforded to women and girls.

The paper focuses on the following areas:

- ENDING VIOLENCE AND TRAFFICKING IN WOMEN AND GIRLS;
- IMPROVING CONDITIONS FOR WOMEN'S ECONOMIC OPPORTUNITY;
- INCREASING WOMEN'S POLITICAL PARTICIPATION; AND
- ADVANCING HUMAN RIGHTS OF WOMEN BY PROMOTING EQUALITY.

The information in this paper was collected from a variety of sources, including the Office of the High Commissioner on Human Rights treaty body website and other United Nations resources, (especially UNIFEM's 30th Anniversary website www.unifem.org/cedaw30/success_stories) non-governmental reports, news and media resources, scholarly publications, and interviews with individuals who have been involved in implementing or reviewing the implementation of CEDAW at global and national levels.

BACKGROUND ON CEDAW

The human rights of women and men are enshrined in international human rights agreements signed by nations representing many different cultures, religions and traditions. In the Preamble to the Charter of the United Nations (UN), signed on June 26, 1945, governments committed “to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small” and in Article 1, to secure “fundamental freedoms for all without distinction as to race, sex, language, or religion.”¹

Persistent injustices and discrimination experienced by women around the world led the UN Commission on the Status of Women to call in 1974 for the creation of a single, comprehensive treaty to protect and promote human rights for women. CEDAW was introduced and adopted by the General Assembly on December 18, 1979. On September 3, 1981, thirty days after the twentieth member State had ratified it, the Convention entered into force — faster than any previous human rights treaty had done up to that point. As of May 2010, 186 of 193 countries have ratified the Convention; seven countries — Iran, Nauru, Palau, Somalia, Sudan, United States, and Tonga — have yet to ratify.

ADVANCING WOMEN'S HUMAN RIGHTS: THE GLOBAL IMPACT OF CEDAW

CEDAW promotes women's full participation in economic, political and social life, which has enormous benefits for societies at large. Women's health, education and economic status has numerous benefits for household members, particularly children. Women's participation in the workforce leads to the growth of individual businesses and to the economy at large. Women's leadership of social movements and participation in government can foster peace, justice and security for people around the world.² In order to guarantee women's full participation in these spheres, however, their rights must be protected, respected and fulfilled.

Governments that ratify CEDAW commit to take all appropriate measures to ensure the full development and advancement of women, and to guarantee that women can enjoy and exercise human rights and fundamental freedoms on a basis of equality with men.³ Each country's specific actions will differ according to its particular situation and capacity. As with other United Nations human rights treaties, each ratifying country submits a periodic report to a committee of independent experts — the “CEDAW Committee” — which then issues its own recommendations for countries. The implementation and review process provides a forum for constructive dialogue about the status of women and girls in each country, and helps to provide a “blueprint” for further progress in each country.

THE GLOBAL IMPACT OF THE CONVENTION OF THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)

Countries around the world have used CEDAW's language and recommendations to revise constitutions, change discriminatory laws and policies, support the creation of new legislation, and influence court decisions. Women's organizations and other civil society organizations have also used CEDAW to advocate for change in legislation or policy, to evaluate states' actions, to raise awareness of issues of importance from the local to the global level, and to build the capacity of key actors to deliver on CEDAW's standards. CEDAW language has been used to support advocacy efforts, especially in countries where women have little recourse for action, and the CEDAW Committee's periodic review process can provide the foundation for collaboration between governments and civil society organizations to pursue human rights for women.⁴

The following sections describe CEDAW's impact in four key thematic areas.

ENDING VIOLENCE AND TRAFFICKING IN WOMEN AND GIRLS



Violence against women and girls is both exceptionally destructive and extraordinarily common. The United Nations estimates that one in three women around the world will be beaten, raped, or otherwise abused during her lifetime.⁵ Violence in the home, workplace, and public spaces is the most extreme form of discrimination against women — it is a violation of women's fundamental rights to life and security, and a major impediment to their full participation in society.

CEDAW provides an important framework for preventing violence against women. In General Recommendation 19 on violence against women, the CEDAW Committee has defined gender-based violence as “violence that is directed against a woman because she is a woman or that affects women disproportionately. Such violence includes physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivation of liberty.”⁶

PROTECTING WOMEN FROM VIOLENCE

The following are examples of ways that CEDAW has been used to strengthen laws to protect women from violence, provide survivors with appropriate services, punish perpetrators, and reduce impunity.

AFGHANISTAN In Afghanistan, where the government has ratified CEDAW but has never made a report to the CEDAW Committee, women's organizations use CEDAW as a tool to educate women and to urge the government to implement the treaty. Organizations such as the Afghan Women's Network are using CEDAW to develop a “shadow report” on the status of women in Afghanistan, and are advocating with government ministries for the creation of shelters and safe spaces for domestic violence survivors, as well as increased awareness of domestic violence in society.⁷

GHANA In Ghana, a non-governmental organization (NGO) called Sisters Keepers urged the government to investigate the murders of 32 women by mobilizing the public, organizing press conferences, holding demonstrations and submitting petitions to the Parliament and the Executive branches. This and other forms of advocacy by Ghana human rights advocates led to passage of a domestic violence act in 2007, using standards established in CEDAW's General Recommendation 19.⁸

MEXICO In response to an epidemic of violence against women, particularly in the Ciudad Juarez area, and under major domestic and international pressure (including pressure from the CEDAW Committee), Mexico is changing its response to violence against women. In 2007 Mexico passed the Mexican General Law on Women's Access to a Life Free from Violence, which draws on CEDAW and the Committee's General Recommendation 19, among other international and regional treaties. By 2009, all of Mexico's 32 states had adopted the law, making it fully enforceable throughout the country.⁹

SIERRA LEONE In June 2007, Sierra Leone passed the Domestic Violence Act, which creates a state obligation to protect women from violence, whether the perpetrators are their spouses or not. The passage of this act, along with two others that are collectively known as the "gender acts," followed within one month the recommendations of the CEDAW Committee to "place the highest priority" on the enactment of these laws. The government and partners are now collaborating to implement these acts through training and awareness-raising activities.¹⁰

TANZANIA In a case before the High Court of Tanzania, *Jonathan v. Republic* (September 21, 2001), "Jonathan" appealed a lower court decision that he was guilty of rape in forcibly seizing a 23-year-old woman from her home, taking her to his house and forcing her to have sex with him. The appellant claimed that his conduct was permissible as a traditional marriage under customary norms. Citing the Tanzania Law of Marriage Act and several human rights agreements, including Article 16(b) of CEDAW, the Judge found that the sexual encounter was violent, nonconsensual and without volition, and therefore upheld the conviction of rape.¹¹

TURKEY In Turkey, women's organizations have used the CEDAW ratification and reporting process as an advocacy tool to reform the country's civil and penal codes. The process also helped grassroots organizers set up the Purple Roof Foundation, Turkey's first independent domestic violence shelter. "CEDAW and affiliated reporting processes have provided a critical political forum, in addition to international validation and support for the key demands of the Turkish women's movement, helping women's rights advocates to reiterate and emphasize their demands for gender equality."¹²

UGANDA In the case of *Uganda v. Matovu* before the High Court of Uganda at Kampala (October 21, 2002), the defendant was accused of defilement against a woman, and the Judge declined to apply a common law rule whereby the court was expected to “warn itself that it is dangerous to act upon the uncorroborated evidence of the victim [of a sexual offense] and before so acting must satisfy itself that the victim is a truthful witness.” The Judge cited Uganda’s Constitution and Article 1 of CEDAW when arguing that this rule was discriminatory against women, who were most frequently the victim of such offenses. “The Judge held that the discriminatory rule was unconstitutional and therefore null and void.”¹³

PREVENTING TRAFFICKING IN WOMEN AND GIRLS

CEDAW’s Article 6 calls on governments to take all appropriate measures to “suppress all forms of traffic in women and exploitation of prostitution of women,” and the CEDAW Committee has stated that all forms of trafficking are “incompatible with the equal enjoyment of rights by women and with respect for their rights and dignity.”¹⁴ CEDAW is only one of two human rights treaties that specifically mentions trafficking, and as such is an extremely important instrument for strengthening national and international responses to trafficking of women and girls.¹⁵ Many countries, including Nepal, Netherlands, Vietnam, Philippines, Thailand, and Sweden,¹⁶ have used CEDAW to strengthen their responses to trafficking.

NEPAL Due to the high numbers of women and girls reported to be trafficked within and outside of Nepal, and in response to the urging of the CEDAW Committee to adopt a stronger legal framework in response, Nepal in 2007 enacted the “Human Trafficking and Transportation (Control) Act.” This law uses a more comprehensive definition of “trafficking” than previous legislation, and has improved measures for prosecuting traffickers, providing justice and appropriate services to survivors of trafficking and raising awareness of the prevalence and consequences of human trafficking. The law includes special measures to identify and prosecute trafficking of children.¹⁷

NETHERLANDS The Netherlands, a “destination country” for sex trafficking, adopted new legislation on human trafficking in January 2005 in response to queries by the CEDAW Committee during a previous review. The new legislation broadened the definition of trafficking to encompass all forms of exploitation, and increased maximum penalties for traffickers. In December 2004, the Dutch government prepared its first National Human Trafficking Action Plan, identifying 65 concrete action points in the areas of human rights. The government has established a national Human Trafficking Taskforce and established a National Rapporteur on Human Trafficking. It has also modified its immigration and residence regulations to accommodate people found to be victims of human trafficking. In January 2006 a national campaign was launched to raise public awareness of trafficking and its consequences.¹⁸

IMPROVING CONDITIONS FOR WOMEN'S ECONOMIC OPPORTUNITY

Women's full participation in economic life has important benefits for households, for businesses, and for development at a national and global level. Women's roles as agricultural producers, as entrepreneurs, as leaders of civil society organizations and corporations have important economic and social benefits, but are often constrained by discriminatory laws, policies, and social norms. The World Economic Forum has identified a correlation between gender equality and the level of development of countries; yet, they found that countries have closed only 60 percent of the gap between women and men in economic outcomes.¹⁹

CEDAW has been used to enhance an environment that is conducive to the full participation of women. Article 11 calls on nations to take all appropriate measures to eliminate discrimination against women in the field of employment.



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CREATING SAFE WORKPLACES FREE FROM DISCRIMINATION AND VIOLENCE

BANGLADESH In 2009 the High Court of Bangladesh reached a landmark decision to prohibit sexual harassment, a major barrier to the active participation of women in the workplace. Inspired by the success of India's *Vishaka* case, the Bangladesh National Women's Lawyers Association argued there was a "legislative vacuum" that resulted in "harrowing tales of repression and sexual abuse of women at their workplaces, educational institutions and other government and non-governmental organizations."²⁰ The court looked at the Constitution and CEDAW — particularly Article 11 — to understand how guidelines and legislation should be drafted. The court issued sexual harassment guidelines that will serve as the basis for national legislation.²¹

JAPAN Japan ratified CEDAW in 1985 and ushered in important reforms, including the introduction of an Equal Opportunity in Employment Law (EOEL) and reformation of the Labour Standards Law to provide greater equality between women and men in employment.²² But women continued to face discrimination in the workplace. A group of female employees launched a wage discrimination case against the Sumitomo Electric Company in the Osaka Appeals Court, and the Working Women's Network (WWN) was founded to support their case. WWN appealed directly to the CEDAW Committee for support, which it gave in the form of Concluding Comments in 2003.²³ The case was settled, resulting in compensation for some of the plaintiffs and an order by the court to amend the EOEL to reduce de facto discrimination against women. "It must be borne in mind that to tolerate the vestiges of discrimination based on past social understandings would result in turning one's back to the progress in the society," the judge said.²⁴ The government of Japan has taken additional actions to improve workplace equality, including policies to prevent and punish sexual harassment and campaigns to raise public awareness about the EOEL and to spotlight corporations taking positive action to close workplace gender gaps.²⁵

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INDIA

In 1997 a group of women's NGOs brought a petition to the Supreme Court of India on behalf of a woman who had been brutally gang raped by her colleagues in a village in Rajasthan (*Vishaka and others v. State of Rajasthan and others* [1997]). The victim, a publicly employed social worker, had been visiting a rural village to investigate a claim of child marriage when she was gang-raped. Local officials failed to investigate the crime, in part because no laws existed in India to protect women from sexual harassment in the workplace or while on the job. The women's organizations filed a class action suit under Article 32 of the Constitution to seek court enforcement of the rights of working women, and cited India's commitments under Articles 11 and 24 of CEDAW. The court declared that through its ratification of CEDAW and its commitment to the Beijing Platform of Action, India had endorsed the international standard of women's human rights, which must include protection from sexual harassment. The court also drew up a set of implementing guidelines and norms, including detailed requirements for processing sexual harassment complaints.^{26, 27}

SAUDI ARABIA

In Saudi Arabia CEDAW is currently being used to draft a new law that would allow female lawyers to try family law cases in court. Under current law females cannot enter courts alone. Even female graduates of law schools can only serve as "law consultants," rather than full lawyers. The draft legislation would allow women to represent other women in family law cases, and would eliminate the rule that any woman in a court must be accompanied by a male guardian.²⁸

ZAMBIA

In the High Court of Zambia (*Longwe v. Intercontinental Hotels, 1984*), the plaintiff Longwe accused the Intercontinental Hotel of discriminating against women because of its policy of refusing entrance to a woman unaccompanied by a male escort. The court agreed with Longwe's claims that the actions violated the anti-discrimination provisions of the Zambian Constitutions, as well as CEDAW Articles 1, 2, and 3.²⁹

ACHIEVING EQUAL RIGHTS TO OWN AND INHERIT PROPERTY

Women's unequal access to ownership and inheritance rights for land and other property, in both law and custom, has been a major barrier to their economic empowerment and to the full enjoyment of their human rights. CEDAW's Article 15 calls for equality between women and men before the law, and Article 16 calls for equality between women and men in all matters relating to marriage and family relations, including "the same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment, and disposition of property." CEDAW has been used to achieve landmark victories for women to gain their property and inheritance rights.



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INDIA In India, the government amended the Hindu Succession Act of 1956 to establish equality in property rights in 2005. Under the amendment, females — including widows who have remarried — can inherit ancestral property on the same terms as male counterparts.³⁰

KENYA In Kenya, CEDAW has been used in at least three cases challenging discriminatory customary law. In one case (*In re Wachokire, 2002*), an unmarried woman disputed her brother's claim that he deserved a greater portion of land from their deceased father. The case challenged Kikuyu customary law, which held that an unmarried woman lacked equal inheritance rights because she was expected to get married. The Chief Magistrate's Court stated that the customary law was in violation of the Kenyan Constitution and Article 15 of CEDAW, which provides for legal equality between women and men. The appellant and her brother received equal portions of their father's property.³¹

In the case of *Rono v. Rono* in 2005, before Kenya's Court of Appeals, the sons of a deceased man argued that they deserved a greater share of their father's property than his widow or his sisters, arguing "According to Keiyo traditions, girls have no right to inheritance of their father's estate." The court found that the non-discrimination standard of Kenya's Constitution and human rights agreements, including CEDAW, must prevail.³² In 2008, in a similar case where an appellant argued that Masai customary law did not recognize a daughter's right to inherit property from her father's estate, the court relied on the *Rono v. Rono* decision to affirm women's inheritance rights.³³

KYRGYZSTAN, TAJIKISTAN In Kyrgyzstan and Tajikistan, comprehensive land reform over the last several years has involved de-collectivization and privatization. These processes were not intended to exclude women, but they were discriminatory in their effects, leaving many women without a chance to own land. As a result of a media and advocacy campaign by women's groups, both countries' land codes were reformed to align with Article 16 of CEDAW. Awareness was raised and resources were increased for government institutions, local officials, local governments, women's cooperatives, and individual women. Individual women received legal advice and support to enable them to claim their rights. Between 2002 and 2008, the proportion of women owning family farms in Tajikistan rose as a result from 2 percent to 14 percent.³⁴

TANZANIA In Tanzania, the High Court used CEDAW and the Constitution in 1990 (*Ephrahim v. Pastory*) to rule in favor of a plaintiff who had challenged a Tanzanian law derived from Haya custom that forbade her from selling customary land her father had bequeathed her in a will.³⁵ In another case, *Chilla v. Chilla* in 2004, the High Court used CEDAW and the Constitution to establish that the sister of a deceased man could not claim administrative rights to the estate and his children over the mother of the deceased's children.³⁶

INCREASING WOMEN'S POLITICAL PARTICIPATION

Women's participation in public life, as voters, community leaders and political representatives, has important benefits for societies and nations. Evidence has shown that more women in government can improve overall governance performance, and can help ensure that the voices of women and other marginalized groups are heard and that the state addresses their needs.^{37, 38} The CEDAW Committee has noted, "The examination of States parties' reports shows that where there is full and equal participation of women in public life and decision-making, the implementation of their rights and compliance with the Convention improves."³⁹ Nevertheless, women's political participation continues to be less than men's throughout the world. As of 2010, fewer than one-fifth of world members of parliament are women.^{40, 41, 42} According to the World Economic Forum, only 17 percent of the gap between women and men in political life has been closed.⁴³

Some countries have relied on CEDAW to eliminate discriminatory laws and policies in the political sphere and to support "temporary special measures" to increase the representation of women where they have traditionally been under-represented. Article 7 calls for the elimination of discrimination against women in a country's political and public life, and Article 8 calls for equal participation of women as government representatives at the international level and in the work of international organizations.

COSTA RICA

In 2003, the Constitutional Chamber of the Supreme Court of Costa Rica ruled that the President of the Legislative Assembly had failed to name proportional numbers of women and men to the assembly's 2002-2003 permanent committees. In Voto No. 2166-99, the court agreed unanimously that the Assembly president's omissions were inconsistent with the guarantee of equality under the Costa Rican Constitution and those of CEDAW (Article 7) and the Inter-American Convention on Human Rights.⁴⁴

KUWAIT

Kuwait ratified CEDAW in 1994, but its failure to extend to women the right to vote drew the attention of the international community including members of the CEDAW Committee. In its Concluding Comments to Kuwait in 2004, the Committee stated, "The Committee calls upon the State party to take all necessary steps, as a matter of the utmost urgency, to introduce and actively support the adoption of legislation to amend the discriminatory provisions of the Electoral Law in line with the constitutional guarantee of equality and in order to ensure compliance with the Convention."⁴⁵ The next year the Kuwaiti Parliament voted to extend to women the right to vote — a major victory for the women of Kuwait and for women's rights advocates around the world. In 2009, four women were elected to the Kuwaiti parliament just four years after women were extended voting rights. They are the first women elected to the 50-seat parliament since the country became a democracy in 1962.⁴⁶

RWANDA Many countries have adopted temporary special measures to overcome persistent barriers to women's participation in government. Rwanda has had the most success in this regard; when it amended its Constitution in 2003, the country introduced a quota for women's participation in all decision-making bodies, and today 56 percent of its members of Parliament are women.⁴⁷ This has led to women's and girls' increased participation in education and business, as well as the introduction of a gender-based violence bill in 2006, largely attributed to a new style of participatory leadership and civil society engagement demonstrated by women leaders in Parliament.⁴⁸

ADVANCING HUMAN RIGHTS OF WOMEN BY PROMOTING EQUALITY

CEDAW provides a practical blueprint for countries to promote basic rights and open opportunities to ensure that women and girls are able to participate fully in the economic, social and political life of their communities. CEDAW helps countries to identify persistent discrimination so that they can take appropriate measures to address these gaps. In addition, some countries have focused on training public officials and educating citizens about CEDAW.

REVISING CONSTITUTIONS TO END DISCRIMINATION AGAINST WOMEN

Some countries have used CEDAW as a guide to revise constitutions or to introduce new, comprehensive legislation on women's rights and gender equality. Bolivia, Brazil, Colombia, Nepal, Rwanda, South Africa, Thailand and Uganda have all used the principles and language of CEDAW in the revision or drafting of national constitutions.



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PHILIPPINES In 2009 the Philippines introduced the Magna Carta of Women [officially Republic Act No. 9710], a comprehensive women's human rights law that seeks to eliminate discrimination against women by recognizing, protecting, fulfilling and promoting the rights of Filipino women. The Magna Carta has relied heavily on the provisions of CEDAW, particularly in its definition of discrimination against women, and in its specific provisions. The Magna Carta elaborates on women's rights to be protected from violence, to participate and be represented in all aspects of society, and to be treated equally before the law. Women's organizations in the Philippines were instrumental in passage of this law and relied heavily on the CEDAW content and procedures.⁴⁹

RWANDA In 2003 the Constitution of Rwanda was amended to enshrine non-discrimination and gender equality, triggering extensive legal reforms to remove discriminatory provisions, particularly in the Family Code, Criminal Code, and Commercial Code.⁵⁰ Women now have access to rights that they were previously denied, including the right to inherit family property, to convey nationality on children regardless of paternal affiliation, and to record children on

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identity cards. According to Rwanda's last report to the CEDAW Committee, now "women are guaranteed the enjoyment and exercise of fundamental human rights and freedoms by constitutional and legislative provisions, and by the ability to appeal to various judicial and administrative organs in case of violation of their rights."⁵¹

THAILAND The Constitution of Thailand was amended in 2007. As a result of collaboration between the government Constitutional Drafting Committee and organizations promoting women's human rights, the new constitution contains explicit language to protect the rights of women. It condemns violence against women, declaring it a form of discrimination, and also provides guarantees for women's participation in the political process.⁵²

EDUCATING JUDICIARY, LAW ENFORCEMENT AND TRADITIONAL LEADERS ON HUMAN RIGHTS FOR WOMEN

Merely creating laws does not guarantee that they will be implemented effectively; it is critical to train and educate those who administer the law. CEDAW has been used as a framework and tool to educate judges, legal administrators, and other leaders on how women's rights can be fulfilled.

BRAZIL A legal literacy program in several states of Brazil, Promotoras Legais Populares (PLP), trains community-based paralegals to learn about women's human rights and to educate other women in their communities about their rights, the law and citizenship, the organization of government, national and international human rights laws and their monitoring mechanisms, and other legal and public policy issues. An evaluation of the project in the state of Rio Grande do Sul found that it has had significant effects on the lives of participants, their communities, and societies. Individual women have used it to return to school and participate more actively in public life. In this program, "CEDAW has been a source of inspiration and a key instrument for educating women about their rights."⁵³

CAMEROON In 2007 civil society organizations in Cameroon put together a training manual for traditional leaders called "CEDAW Made Easy." The manual gives traditional leaders the information and motivation to improve the lives of women in their communities by changing traditional practices that are harmful to women. As a result, certain harmful practices have been abolished in some regions, such as being stripped of clothing upon the death of one's husband.⁵⁴

LATIN AMERICA The Women, Gender, and Justice Program of United Nations Latin American Institute for Crime Prevention (ILANUD) has undertaken extensive training of judges and other legal administrators in Latin America on state obligation under CEDAW. Each year an annual meeting of Female Supreme Court Justices of the Spanish Speaking Americas and Spain discusses the application of CEDAW. In 2000, only 13 women judges participated, but in 2008, 74 participated — both because of increased interest and because more female judges hold office as a result of this group's work.⁵⁵

GUARANTEEING EQUAL RIGHTS TO CITIZENSHIP AND NATIONALITY

CEDAW's Article 9 calls for equal rights to acquire, change, or retain nationality between women and men, and for equal rights with respect to the nationality of children. While "nationality or citizenship within a country provides the very foundation of rights... nationality laws in many countries have entrenched discrimination against women," which "has often been justified on the basis of local culture, tradition and custom, family values or religion."⁵⁶ Many countries have entered reservations* to this article.⁵⁷ However, during the last three decades many countries have achieved consensus on the importance of equality in nationality laws. CEDAW has thereby provided a platform for these countries to change discriminatory legal codes.

BOTSWANA The Botswana Citizenship Act of 1984 declared that the nationality of any child born in Botswana would be determined exclusively by the nationality of the father. Unity Dow, a Botswana attorney, argued before the Botswana High Court (*Dow v. Attorney-General of Botswana*, 1992) that the act discriminated on the basis of sex, and was counter to the principles of the country's constitution and to the human rights treaties to which it was bound. The High Court ruled in favor of Dow, holding that the constitution did prohibit discrimination on the basis of sex. As a result, Botswana ratified CEDAW in 1995 and amended the Citizenship Act to give equal rights to women and men with respect to the citizenship of their children.^{58,59} According to Justice Dow, her case and CEDAW have been influential in facilitating public and private debate about the role of women in society and improving the relationship between government and NGOs.⁶⁰

EGYPT Egypt reformed its nationality law in 2004 to ensure gender equality in deciding the nationality of children. Following this step, a committee of high-level government delegates met to study the withdrawal of Egypt's reservations to CEDAW, and in 2008 Egypt officially withdrew its reservation to Article 9.⁶¹

FIJI, JAMAICA, LIECHTENSTEIN, THAILAND

Fiji, Jamaica, Liechtenstein and Thailand have withdrawn their reservations to Article 9 and introduced nondiscriminatory nationality legislation.⁶²

PROTECTING BASIC RIGHTS WITHIN MARRIAGE AND FAMILY LAW

Around the world, discrimination against women in family law contributes to abuses and the inability to have recourse to legal protections. CEDAW's Article 16 calls for countries to eliminate discrimination against women in family laws and to establish equal rights between women and men for entering into and ending marriage.

* Article 28 of the Convention allows for State Parties to issue reservations as long as they are not "incompatible with the object and purpose of the present Convention." There is broad interpretation of this article at global and national levels.

BURUNDI, FIJI, MALDIVES, TUNISIA, UZBEKISTAN, VIETNAM

Burundi, Fiji, Maldives, Tunisia, Uzbekistan and Vietnam “introduced a wholesale review of family law”⁶³ in the wake of ratification.

EGYPT

Egypt introduced reforms in 2001 to permit no-fault divorce (divorce that does not require allegation of a spouse being at fault).⁶⁴

MALAYSIA

In Malaysia, the Islamic Family Law was expanded to give more rights to women. CEDAW has been used in Malaysia and in other pluralistic societies such as India and Indonesia, where different legal codes exist in parallel for different religious or ethnic groups, CEDAW has been used to give citizens a choice to “opt out” of a system of personal law that might discriminate against them.⁶⁵

MOLDOVA

Moldova has amended its Family Code to introduce rights for women in polygamous marriages and controls on the procedure in the *talaq* form of divorce, whereby a husband can unilaterally repudiate his wife.⁶⁶

MOROCCO

has introduced comprehensive reforms to its family law in recent years. The original *Moudawanah*, or Family Code, was introduced following independence in 1957, and made wives legally subordinate to their husbands. Morocco ratified CEDAW in 1993, but with a number of reservations to Article 16. After organizations advocated human rights for women for many years, in cooperation with King Mohamed VI and the Prime Minister, Morocco introduced a new *Moudawanah* in 2004.

Using Article 16 of CEDAW as a guide, the code gives women greater equality and protection for their human rights within marriage and divorce. Husbands and wives now have joint responsibility for their families. The Code raised the legal age of marriage from 15 to 18, changed marriage and divorce laws, and greatly restricted polygamy. It also introduced Family Courts to ensure that the new rights are enforced.

Morocco’s introduction of the new Family Code was part of a broader wave of reforms, “including changes to the Labor Code to introduce the concept of sexual harassment in the workplace (2004), changes to the Penal Code to criminalize spousal violence, changes to the Nationality Code (2007) to give women and men equal rights to transmit nationality to their children, and changes to the Electoral Code, to increase women’s political participation by creating a “national list” that reserves 30 parliamentary seats for women (2002).”⁶⁷ In December 2008, King Mohammed VI publically banned discrimination against women, stating “Our country has become an international actor of which the progress and daring initiatives in this matter are readily recognized.”⁴² He officially lifted all Morocco’s reservations on CEDAW.

CONCLUSION

Over the last three decades, CEDAW has provided opportunities for countries to improve the status of women. In many countries, CEDAW has been a force for change and has created opportunities for dialogue among citizens, civil society, governmental representatives, and the global community about the gaps between the ideal and the reality of women's lives. CEDAW has been cited to protect women and girls against violence and trafficking; to prevent discrimination against women in nationality, inheritance, and property ownership; to promote women's full participation in the economic and political life of their countries; and to advance women's human rights by promoting equality. CEDAW has also been used to educate lawmakers, law enforcement officials, members of the judiciary, and citizens about the rights of women.

Since CEDAW's adoption by the United Nations, more girls are going to school; women's life expectancy has increased; and more women are earning an income than ever before. There is also far greater awareness of the epidemic of violence against women and girls and its consequences.

However, much remains to be done before women will achieve full realization of their human rights and participate as equal partners in all aspects of society. While the status of women has advanced greatly around the world, women still lag behind men in most areas of political and economic life; women are affected disproportionately by poverty, illiteracy, and violence; and their access to the most basic legal rights is still limited in many countries.

The Convention on the Elimination of All Forms of Discrimination against Women provides a blueprint and a process whereby government and civil society can collaborate to achieve full realization of basic rights for women. Universal ratification and implementation of CEDAW would strengthen the ability of nations around the world to promote the human rights of women, thereby contributing to a more healthy, just, prosperous, and secure world for everyone.

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