

# **American Ratification of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women**



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## **Executive Summary**

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is a United Nations treaty which addresses issues of inequality between the sexes and calls for specific measures to be taken to solve these issues. While the United States approved the initial treaty in 1979, the United States Senate has failed to ratify the treaty officially. The general population of the United States requires a greater awareness and understanding of the CEDAW in order to combat opposition to the CEDAW and effectively pressure Congress to adopt it in its entirety. By clarifying the implications of CEDAW ratification as it applies to some of the most controversial topics, as well as noting many of the problems it would address and the resulting positive effects, a strong, clear case forms in favor of the CEDAW. This accelerates the ability to advocate for ratification through direct communication with Congress, as well as social media campaigns and the work of various organizations.

## **Statement of the Problem**

The Convention on the Elimination of All Forms of Discrimination Against Women is a United Nations treaty which promotes equality between the sexes by promoting legislation which protects these ideals and rectifies discriminatory policies or culture. Despite Jimmy Carter signing the treaty in 1979, the Senate has never ratified the treaty, making the United States one of nine nations (and the only industrialized democracy) not to do so.<sup>1</sup> Opposition to Senate ratification argues that doing so would force reformation of laws dealing with sensitive subjects such as abortion, same-sex marriage, and prostitution, as well as place the United States in a subordinate position to the 23-person CEDAW Committee, which might not accurately represent American views or values.<sup>2</sup> It is imperative that these fears are allayed publically so that the general public will call on the Senate to ratify this treaty; the United States' immense lag in doing so has compromised its position as a leader within the United Nations as well as provoked questions about America's commitment to notions of equality.

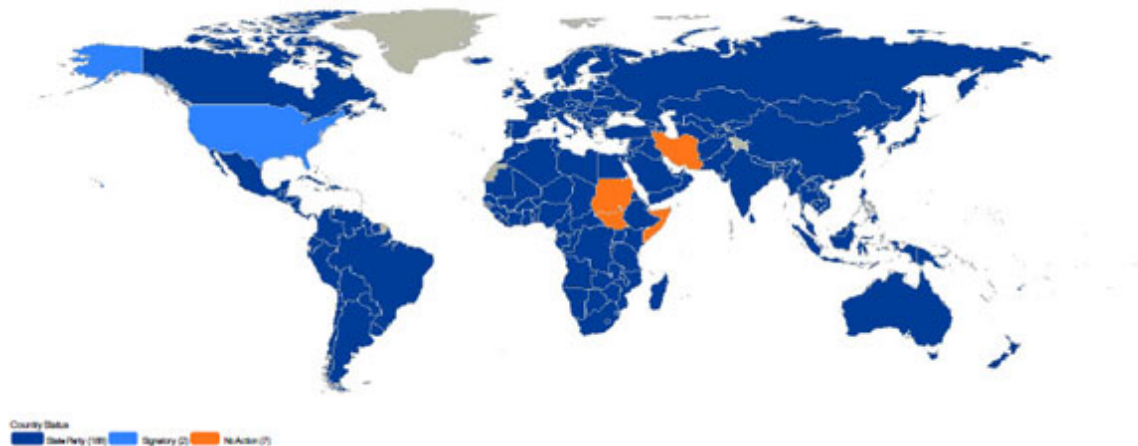


Figure 1: Map showing various country approval statuses of the CEDAW.<sup>3</sup>

## Background

The Convention on the Elimination of All Forms of Discrimination Against Women has been hailed as “the international bill of rights for women.”<sup>4</sup> The CEDAW was adopted by the United Nations general assembly in 1979 and instituted on September 3, 1981.<sup>5</sup> The CEDWA aims to eliminate discrimination against women around the world and promote equality between the sexes.

Discrimination is defined as “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”<sup>6</sup> It outlines comprehensive frameworks for legislation regarding issues in each of these fields, defining how issues such as maternity leave, worker benefits, rights regarding having children, and rights to participate in rural development should be addressed in order to foster equality.<sup>7</sup>

Although the United Nations cannot force any country to abide by the CEDAW, the 188 signatories around the world have committed to and made significant progress in tackling issues of prejudice and discrimination which challenge women globally. Women have been able to cite the CEDAW to garner support and battle discriminatory measures. In the Netherlands in 1984, Mrs. S.W.M. Broeks successfully challenge a law which denied married women the same unemployment benefits it granted married men. In Peru 1986, the Human Rights Commission supported Ms. Avellanal when the Supreme Court tried to bar her from suing tenants for rent because of laws restricting women’s property. And again in 1984, the Netherlands was scrutinized when a textile company fired her for being pregnant, arguing that she would not be able to perform her work.<sup>8</sup> “The

Treaty has encouraged the development of citizenship rights in Botswana and Japan, inheritance rights in the United Republic of Tanzania, and property rights and political participation in Costa Rica. CEDAW has fostered development of domestic violence laws in Turkey, Nepal, South Africa, and the Republic of Korea and anti-trafficking laws in Ukraine and Moldova.”<sup>9</sup>

While the United States executive Jimmy Carter initially signed the treaty in 1979, the Senate has yet failed to ratify the treaty. Several presidents have supported ratification, including President Obama, as well as Secretary of State John Kerry. In 2002, the Senate Foreign Relations Committee recommended ratification of the full treaty, but still the issue has remained off of the floor.<sup>10</sup> The treaty faces severe opposition from highly conservative and religious groups on the right, who fear that ratification will demand changes in American treatment of issues like same-sex marriage, planned parenthood, and labor laws. This is coupled with the resentment of surrendering American sovereignty.

### **Spreading Awareness of the Truth**

Misunderstanding about what the CEDAW actually does is one of the largest obstacles standing in its way. Many opponents of U.S. ratification of the CEDAW are able to build their support on false perceptions of its purpose, stance on matters, or implications. By clearly outlining the influence of the CEDAW with regards to hot-button issues, many of these myths can be cleared away and a wider audience will accept and push for its ratification.

### **What does ratification mean for the United States?**

Unlike some fear (or hope), ratifying the CEDAW will not lead to immediate changes. Additionally, the United Nations will not be the enforcers of these changes; it will still be up to the United States to create or reform legislation that complies with the standards outlined by the CEDAW. The creation of these bills will still be subject to the United States legal process, just like the creation of any other set of laws. Furthermore, the failure of the United States to meet any of the standards will not result in any direct punishment from the United Nations.<sup>11</sup> The CEDAW should be regarded as more of a pledge taken by the ratifying nations to promote equality and meet the goals. As is the case with most of the agreements created by the United Nations, while UN Committees can review a country's progress in complying with the standards, it is still up to the member country itself to actually enact the change and promote these standards. This limits the sovereign control that some Americans fear would occur if the U.S. ratified the CEDAW. Additionally, countries are allowed to make certain exceptions to different provisions. They do not have to complete every provision and they can

define more nuanced interpretations of the laws especially regarding certain cultural aspects.<sup>12</sup>

### **CEDAW and Abortion**

Some conservative groups have argued against ratifying the CEDAW because they worry that it is equivalent to ratifying the legalization of abortion. This, too, is false. Countries such as Ireland and Rwanda, where abortion is illegal, have ratified the CEDAW. The United States State Department has cited the CEDAW as “neutral” regarding the issue of abortion because it “does not address the matter.”<sup>13</sup>

### **CEDAW and Marriage Equality**

Other opponents of the CEDAW argue that ratifying the CEDAW means fully legalizing gay marriage. The CEDAW does not actually call for the legalization of gay marriage; instead, it argues against gender-based discrimination in treatment of same-sex unions. The goal of the CEDAW is to achieve equal treatment for same-sex female couples as same-sex male couples receive.<sup>14</sup> Therefore, the CEDAW does not prohibit banning gay marriage -- it simply requires nations to discriminate equally.

### **CEDAW and Prostitution**

The CEDAW has been widely criticized as calling for the legalization of prostitution. Again, this is not the case. To do so would be contrary to the larger goals of the United Nations as human trafficking and sex workers are a huge problem it deals with; the convention even commands in Article Six that “parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.”<sup>15</sup> Instead, the CEDAW eliminates the punishments that exist in more radical countries for prostitutes. These punishments are removed so that women who need medical aid do not avoid seeking it out because they are worried they will face legal consequences because of their work.<sup>16</sup> In this way, the CEDAW again works to promote the safety of women and general positive health.

### **What the Convention will do?**

Ratification of the convention will demand an end to discrimination against women in many different sections of society. Promoting equality by identifying issues and enacting legislation for changes will reduce challenges women face in the workplace, in education, with health, and with social and legal discrimination. Identifying these issues and noting the rights women have to equal

treatment with regards to these problems will lead to solutions that will ultimately benefit America as a whole.

### **Economic Issues**

Adopting the CEDAW will ensure women receive equal treatment in the workplace. This goes beyond demanding equal pay; it covers aspects such as fair and equal conditions for career training, the hiring process, the criteria and selection of jobs, respect and compensation for work, and other facets such as retirement and social security. Additionally, the CEDAW offers women special protection in the workplace from dismissal or demotion because of pregnancy, maternity leave, or marital status.<sup>17</sup> A Cornell study done in 2007 about the hiring potential of women found that most employers find women with children the least desirable to hire, while men with children are considered the best because they seem to exhibit responsibility.<sup>18</sup> While pinning down concrete evidence of biases such as this one can be difficult, the CEDAW at least provides more explicit protection against discrimination based on these factors. The CEDAW also calls on nations to enforce equal treatment of women under banking systems or when asking for loans so that women can have the same opportunities as men when trying to build a business or pursue self-employment.

Finally, the CEDAW denotes provisions for child-care as “essential rights” and calls on societies to provide substantial child-care so both sexes have equal opportunities for employment.<sup>19</sup> Mary Brinton, professor of sociology at Harvard, names inadequate child-care, which forces many women to leave prestigious jobs, the largest obstacle women face to achieving equality today.<sup>20</sup> While no doubt transgressions of these protections will continue to occur, the ratification of these articles will give women a stronger ground to stand on when they face discrimination; they will have explicit protection regarding these matters if employers attempt to mistreat them or ignore their demands for equality.

### **Education**

The CEDAW outlines the basic requirements for ensuring equality in education, promoting coeducation and revision of materials which enforce stereotypical roles, as well as access to equal facilities, training, and opportunities such as scholarships and sports.<sup>21</sup> While Harvard professor Mary Brinton notes that women have caught up to men in educational achievements in the United States, she also perceives gender stereotypes as having a continuous, negative effect on American society.<sup>22</sup>

## Health

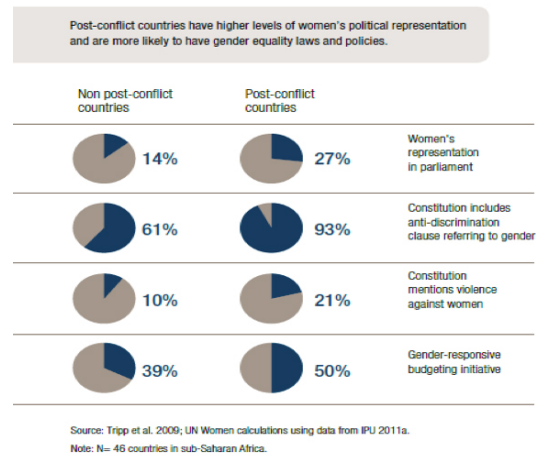
As previously stated, the CEDAW provides protection for women in the workplace both during pregnancy and maternity leave.<sup>23</sup> This is an important step because if women fear their careers will be affected when pregnant, they will be more reluctant to adjust their work schedule based on their new needs or take time off, which could lead to them overworking, causing unneeded duress on both the mother and unborn child and resulting in health complications for both. Also as noted before, the CEDAW provides protection from legal repercussions for women involved in the sex industry so they are not afraid to seek medical treatment because they are worried about punishments. This, again, promotes the overall health of society. The Convention also calls on the state to ensure women, especially in rural communities with more challenges, the right “to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.”<sup>24</sup>

## Social and Legal Issues

Finally, the CEDAW establishes equal treatment for women under the law.

Additionally, it also calls for equal rights for women in marriages. These include rights such as equal protection to consenting to or leaving a marriage, rights to choosing the number of children, “the right to choose a family name, a profession and an occupation,” and equal property rights.<sup>25</sup> Implementation of the CEDAW

has led to significant changes in other nations, which now exhibit more balanced representation of men and women in politics; adopting it could assist the United States in rectifying these problems as well.



## Advocate Now

By becoming educated on the truths about the CEDAW covered above, more Americans will understand the benefits of ratifying this convention. Furthermore, many of the largest opposition statements are disproved or shown to be irrelevant when the CEDAW is broken down and explained for greater understanding. The best way to advocate for the CEDAW is to promote understanding of its mission and its implications. Citizens needs to be informed not only about what ratification will achieve, but also about what it will not automatically imply.

Then, citizens need to communicate with their congressmen about the importance of ratifying the CEDAW. People should write to their congressman directly, or pressure the entire Congress through social media campaigns or work directly with the United Nations Association of the United States of America (UNA-USA). Various chapters of the UNA-USA exist across the nation, and this network organizes different events to promote the goals of the United Nations throughout the year. By joining the UNA-USA, citizens can join the call for equality and work as a coordinated team to promote this important piece of legislation.



Through this work, American citizens can advocate now for comprehensive equality for women by requesting that the Senate finally ratify the Convention on the Elimination of All Forms of Discrimination Against Women. Ratification of this treaty is an important step in achieving true equality between the sexes. The CEDAW provides much-needed protection for women under the law when it comes to a variety of matters. Additionally, ratifying the CEDAW once again will return the United States to its powerful, respected position as a leader in the United Nations.

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<sup>1</sup> Amnesty International, "A Fact Sheet on CEDAW: Treaty for the Rights of Women," *Amnesty*

<sup>2</sup> "Why Won't the U.S. Ratify CEDAW?" *About.com*, last modified September 1, 2009, <http://womensissues.about.com/od/feminismequalrights/a/CEDAWUS.htm>.

<sup>3</sup> *Ratification of the Convention on the Elimination of All Forms of Discrimination against Women*, map, accessed <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>.

<sup>4</sup> Wikipedia contributors, "Convention on the Elimination of All Forms of Discrimination Against Women," *Wikipedia, The Free Encyclopedia*, [http://en.wikipedia.org/wiki/Convention\\_on\\_the\\_Elimination\\_of\\_All\\_Forms\\_of\\_Discrimination\\_Against\\_Women](http://en.wikipedia.org/wiki/Convention_on_the_Elimination_of_All_Forms_of_Discrimination_Against_Women) accessed April 1, 2015).

<sup>5</sup>Wikipedia contributors, "Convention on the Elimination of All Forms of Discrimination Against Women," *Wikipedia, The Free Encyclopedia*, [http://en.wikipedia.org/wiki/Convention\\_on\\_the\\_Elimination\\_of\\_All\\_Forms\\_of\\_Discrimination\\_Against\\_Women](http://en.wikipedia.org/wiki/Convention_on_the_Elimination_of_All_Forms_of_Discrimination_Against_Women) accessed April 1, 2015).

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<sup>6</sup>Wikipedia contributors, "Convention on the Elimination of All Forms of Discrimination Against Women," *Wikipedia, The Free Encyclopedia*, [http://en.wikipedia.org/wiki/Convention\\_on\\_the\\_Elimination\\_of\\_All\\_Forms\\_of\\_Discrimination\\_Against\\_Women](http://en.wikipedia.org/wiki/Convention_on_the_Elimination_of_All_Forms_of_Discrimination_Against_Women) accessed April 1, 2015).

<sup>7</sup> UN Committee on the Elimination of Discrimination Against Women (CEDAW), *adopted 18 December 1979*, available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx>

<sup>8</sup> United Nations Entity for Gender Equality and the Empowerment of Women, "Examples of Cases Where Women Have Used the First Optional Protocol to the ICCPR to Challenge Sex Discrimination," *UN Women*, last modified 2009, <http://www.un.org/womenwatch/daw/cedaw/protocol/cases.htm>.

<sup>9</sup> Amnesty International, "A Fact Sheet on CEDAW: Treaty for the Rights of Women," *Amnesty USA*, last modified August 25, 2005, [https://www.amnestyusa.org/sites/default/files/pdfs/cedaw\\_fact\\_sheet.pdf](https://www.amnestyusa.org/sites/default/files/pdfs/cedaw_fact_sheet.pdf).

<sup>10</sup> Patrick McNeil, "34 Years after Signing, United States Still Hasn't Ratified CEDAW," *Unfinished Business*, last modified July 17, 2014, <http://www.unfinishedbusiness.org/20140717-34-years-after-signing-united-states-still-hasnt-ratified-cedaw/>.

<sup>11</sup> Amnesty International, "A Fact Sheet on CEDAW: Treaty for the Rights of Women," *Amnesty USA*, last modified August 25, 2005, [https://www.amnestyusa.org/sites/default/files/pdfs/cedaw\\_fact\\_sheet.pdf](https://www.amnestyusa.org/sites/default/files/pdfs/cedaw_fact_sheet.pdf).

<sup>12</sup> Amnesty International, "A Fact Sheet on CEDAW: Treaty for the Rights of Women," *Amnesty USA*, last modified August 25, 2005, [https://www.amnestyusa.org/sites/default/files/pdfs/cedaw\\_fact\\_sheet.pdf](https://www.amnestyusa.org/sites/default/files/pdfs/cedaw_fact_sheet.pdf).

<sup>13</sup> Amnesty International, "A Fact Sheet on CEDAW: Treaty for the Rights of Women," *Amnesty USA*, last modified August 25, 2005, [https://www.amnestyusa.org/sites/default/files/pdfs/cedaw\\_fact\\_sheet.pdf](https://www.amnestyusa.org/sites/default/files/pdfs/cedaw_fact_sheet.pdf).

<sup>14</sup> Amnesty International, "A Fact Sheet on CEDAW: Treaty for the Rights of Women," *Amnesty USA*, last modified August 25, 2005, [https://www.amnestyusa.org/sites/default/files/pdfs/cedaw\\_fact\\_sheet.pdf](https://www.amnestyusa.org/sites/default/files/pdfs/cedaw_fact_sheet.pdf).

<sup>15</sup> UN Committee on the Elimination of Discrimination Against Women (CEDAW), *adopted 18 December 1979*, available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx>

<sup>16</sup> Amnesty International, "A Fact Sheet on CEDAW: Treaty for the Rights of Women," *Amnesty USA*, last modified August 25, 2005, [https://www.amnestyusa.org/sites/default/files/pdfs/cedaw\\_fact\\_sheet.pdf](https://www.amnestyusa.org/sites/default/files/pdfs/cedaw_fact_sheet.pdf).

<sup>17</sup> UN Committee on the Elimination of Discrimination Against Women (CEDAW), *adopted 18 December 1979*, available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx>

<sup>18</sup> Ben Waber, "What Data Analytics Says About Gender Inequality in the Workplace," *Bloomsburg Business*, (2014): <http://www.bloomberg.com/bw/articles/2014-01-30/gender-inequality-in-the-workplace-what-data-analytics-says#p2>

<sup>19</sup> UN Committee on the Elimination of Discrimination Against Women (CEDAW), *adopted 18 December 1979*, available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx>



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<sup>20</sup> “Gender Inequality and Women in the Workplace,” *Harvard Summer School*, n.d., <http://www.summer.harvard.edu/blog-news-events/gender-inequality-women-workplace>.

<sup>21</sup> UN Committee on the Elimination of Discrimination Against Women (CEDAW), *adopted 18 December 1979*, available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx>

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<sup>23</sup> UN Committee on the Elimination of Discrimination Against Women (CEDAW), *adopted 18 December 1979*, available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx>

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