



## NETWORK OF WOMEN PARLIAMENTARIANS OF THE AMERICAS

### PRESENTATION OF THE UNITED NATIONS CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN AND ITS OPTIONAL PROTOCOL

#### 1. INTRODUCTION

Adopted on December 18, 1979, by the United Nations, the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) entered into effect on September 3, 1981, as an international treaty after being ratified by twenty countries. As of August 2006, 184 states had ratified the Convention, for a total of over 95% of United Nations member states.<sup>1</sup> Of all international human rights conventions, the Convention has received the second highest number of ratifications.

With the exception of the United States of America, which has only signed the Convention, all states in the Americas have ratified it.<sup>2</sup>

The Convention aims to eliminate all attitudes, practices, exclusions, or preferences made on the basis of gender that put women at a disadvantage or submit them to unfair treatment. As the primary international instrument specifically concerning women, the Convention is intended to ensure that women and men are recognized as equals, but also that they are able to exercise this equality. The Convention is more than an international declaration of women's rights—it is also an action program to ensure that the various states parties guarantee the exercise of these rights.<sup>3</sup>

This tool is a powerful lever to help parliamentarians end the various forms of discrimination facing women and promote the equality that is so crucial to sustainable human development.

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<sup>1</sup> Since 2006, the UN has had 192 member states.

<sup>2</sup> See appendix for Convention and Protocol ratifications by country.

<sup>3</sup> The United Nations defines “state party” as a country that is bound by the obligations of a treaty. This occurs when a country either signs and ratifies or accedes to a treaty.

## 2. CONTENT OF THE CONVENTION

CEDAW requires states parties to incorporate the principle of gender equality in their legislation. States parties have the obligation to take all appropriate measures to eliminate discrimination against women and ensure their full development in all fields—notably civil, cultural, economic, political, and social fields—to guarantee them the full exercise of human rights and fundamental freedoms on a basis of equality with men. In addition, states parties must take specific measures to enable women to exercise their fundamental rights in public and private life.<sup>4</sup>

More specifically, the Convention consists of a preamble and six parts. It contains 30 articles, beginning with 16 basic articles that define women’s rights and the directions states are to take in each area.<sup>5</sup>

### *Preamble*

In its preamble, the Convention notes that the elimination of discrimination against women and the promotion of gender equality between women and men are fundamental principles of the United Nations and constitute obligations under the Charter of the United Nations and other instruments. It emphasizes the fact that despite international mechanisms to promote equal rights among women and men, women continue to face extensive discrimination. It goes on to recall that this discrimination violates the principles of equality of rights and respect for human dignity; is an obstacle to the participation of women on equal terms with men in the political, social, economic, and cultural life of their countries; and hampers the growth of social and family prosperity. The preamble further notes that the maximum participation of women on equal terms with men in all fields is an essential condition to the full and complete development of a country, the welfare of the world, and the cause of peace.

### *Part I*

In the first part of the Convention (articles 1 to 6), the parties agree to take all appropriate measures to promote the equality of women. This includes legislative, administrative, and other measures, such as temporary special measures aimed at accelerating de facto equality (art. 4).

In addition to defining “discrimination against women” (art. 1), the Convention condemns it in all its forms (art. 2) and gives positive affirmation to the principle of equality by requiring states parties to take all appropriate measures to guarantee the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men (art. 3). The Convention is original in that it calls on states parties to modify the social and cultural patterns of conduct of men and women, with a view to eliminating prejudices and discriminatory customs. It asserts that childcare is the shared responsibility of men and women, maintaining that maternity is a social function (art. 5). It commits states parties to suppressing the traffic in women and their exploitation in the form of prostitution (art. 6).

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<sup>4</sup> [http://www.swc-cfc.gc.ca/pubs/0662320506/200210\\_0662320506\\_e.html](http://www.swc-cfc.gc.ca/pubs/0662320506/200210_0662320506_e.html) (November 7, 2005).

<sup>5</sup> The text of CEDAW and the Optional Protocol are available on the website of the Network of Women Parliamentarians of the Americas at <http://www.feminamericas.org/EN/themes/index.html>.

## **Part II**

In part two (articles 7 to 9), states parties undertake to protect the rights of women in public and political life. They agree to ensure women the right to vote and run for election, take part in formulating and implementing government policy, participate in nongovernmental organizations, and represent their countries at the international level, all on equal terms with men. The states also undertake to accord women and their children equal rights with men in terms of nationality, thereby distinguishing women's rights from marital status.

## **Part III**

In part three (articles 10 to 14), the states make various commitments to eliminate discrimination in education, employment, and healthcare as well as economic, social, and cultural life. The articles notably address equal access to education programs, the elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education (art. 10), and the right to the same employment opportunities (art. 11). In terms of employment, the Convention stipulates that states parties agree to take appropriate measures to prevent discrimination against women on the grounds of marriage or maternity. States parties must provide equal access to healthcare services, including those related to family planning (art. 12), and guarantee the right to bank loans and the various forms of financial credit (art. 13). Lastly, this part of the Convention addresses the particular problems facing rural women (art. 14).

## **Part IV**

In part four (articles 15 and 16), states parties undertake to accord women equality with men before the law and the same legal capacity in civil matters, as well as in matters of marriage and family law. The Convention aims to eliminate discrimination against women in all matters relating to marriage and family relations (choice of spouse, parental responsibilities, and reproductive choice).

## **Part V**

In part five (articles 17 to 22), the Convention creates the *Committee on the Elimination of Discrimination against Women* to examine the application of the Convention. It also sets out the terms of monitoring and implementation.

## **Part VI**

Part six (articles 25 to 30) addresses administration of the treaty, notably the provisions for state participation in the Convention, state reservations, and the implementation mechanism for disputes regarding the interpretation or application of the Convention.

### 3. CONVENTION ACCESSION AND RESERVATIONS

A state becomes a party to the Convention by signing and ratifying it, or by accession.<sup>6</sup> The two mechanisms have the same legal value.

Article 28 authorizes states to accompany their ratification with reservations, by which they formally declare that they are not held to one or more provisions of the treaty. However, under the Vienna Convention on Treaty Rights<sup>7</sup> (1969), these reservations cannot be incompatible with the purpose of the treaty the state is ratifying. Article 28 (2) therefore prohibits any reservation that is incompatible with the object and purpose of the Convention.

The table in the appendix shows that several states in the Americas have issued reservations regarding CEDAW, particularly concerning article 29(1), which stipulates that disputes between states parties concerning the interpretation of the Convention can be submitted to the International Court of Justice.

### 4. IMPLEMENTATION OF THE CONVENTION

Once they are bound by CEDAW, states parties must modify their national legislation and policies both in law and in fact to comply with the terms of the treaty, in accordance with the Vienna Convention.

First, states must ensure that the Convention is well incorporated into their legislation. In some countries, the Convention is automatically integrated into the constitution, because international law has primacy over national law. In a number of other types of states, the treaty's implementation requires a process of public consultation with civil society and various organizations, followed by approval by their legislative bodies.<sup>8</sup>

In addition, states must adopt new laws and amend those that contravene the Convention. They must also take various measures concerning the implementation of CEDAW. Here are a few examples:

- Set up impartial institutions and tribunals to defend the principles of the Convention
- Implement government policies and national programs through national gender budgeting
- Raise awareness, mobilize the public, and turn public opinion against discrimination toward women
- Develop cooperation among states and international organizations

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<sup>6</sup> Accession is the act by which a state that is not party to an agreement (and often did not take part in its negotiation) accepts its provisions. It has the same effect as ratification. (Amnesty International. *Au-delà de l'État : le droit international et la défense des droits de l'homme*. Paris: Éditions francophones d'Amnesty International, 1992.)

<sup>7</sup> Under this Convention, states can, under certain conditions, make reservations when they sign a treaty or convention.

<sup>8</sup> These are two distinct approaches. Under a monist approach, duly ratified international conventions immediately take legal effect at the national level (France, U.S.). Under a dualist approach, international and national law are two distinct spheres. The state must therefore formally integrate international rules into its domestic law by act or decree in order to put them into legal effect (United Kingdom, Canada).

## 5. MONITORING MECHANISM

Implementation of the Convention is overseen by the *Committee on the Elimination of Discrimination against Women*, whose mission is to examine states parties' progress in applying the Convention (articles 17 to 30). The Committee is made up of 23 members elected by secret ballot from among candidates that the states parties nominate based on the criteria "of high moral standing and competence in the field covered by the Convention." The members of the Committee are elected for a term of four years. States must produce a report one year after acceding to the Convention, and every four years thereafter or each time the Committee requests one (article 18). These periodic reports must present all of the measures the state has taken to give the Convention effect and outline the progress made.

After examining a report, the Committee gives the state its observations and recommendations to provide further information on its obligations and the steps it must take in order to comply.

For the past few years, the Committee has been calling on nongovernmental organizations (NGOs) and specialized international organizations to formulate general recommendations for states parties on issues regarding discrimination against women.

## 6. OPTIONAL PROTOCOL TO THE CONVENTION

A protocol entered into effect on December 22, 2000 aimed at better ensuring compliance with the Convention. Since the protocol adds further legal obligations, states parties must give their consent by signing and ratifying or acceding to it. To date, 79 states have ratified the optional protocol.

This instrument consists of 21 sections and sets out two procedures:

- The first enables women and gender discrimination victim groups to file complaints (or communications<sup>9</sup>) to the Committee. By ratifying the protocol, states recognize the Committee's competence to receive and consider complaints once all available domestic remedies have been exhausted.
- The second, which is an investigation procedure, authorizes the Committee to launch investigations on its own initiative if it has received credible reports of serious violations of the rights set out in the Convention. Such investigations can be conducted within the state in question.

The protocol also sets out admissibility criteria for communications, as well as an examination procedure. The Committee sends the state party its views and any recommendations it may have, and can ask the state to provide further information about any measures taken to correct the situation. Lastly, the protocol includes two provisions to protect those who file communications. The protocol does not allow reservations. However, states can announce their withdrawal from the investigation procedure at the time of ratification.

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<sup>9</sup> "Communication" is the United Nations' term for complaints addressed to any of its bodies by individuals or groups claiming to be victims of a rights violation.

## 7. INTER-AMERICAN CONVENTIONS

The countries of the Americas have also adopted inter-American conventions on women's rights. The main organization that has worked to develop and promote these instruments is the Inter-American Commission of Women (IACW) of the Organization of American States (OAS). The *Convention on the Nationality of Women* of 1933, which recognizes the principle of nondiscrimination regarding nationality in legislation and practice, was the first international treaty on women's rights. Two short conventions recognizing the civil and political rights of women later followed in 1948.

The *Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women*, also known as the Belém do Pará Convention, entered into effect in 1995. Today, it is a benchmark in international instruments on the theme. While CEDAW is very complete, it does not directly address the issue of violence against women.

The Belém do Pará Convention defines violence against women, including its physical, sexual, and psychological dimensions, in both the public and private spheres. It recognizes violence as an infringement of all other women's rights and requires states parties to implement measures to prevent, punish, and eradicate all forms of violence against women. Lastly, it introduces inter-American mechanisms to ensure its commitments are respected. Of the 34 OAS member states<sup>10</sup>, 31 have ratified this Convention.<sup>11</sup>

Lastly, the Inter-American Democratic Charter adopted by the General Assembly on September 11, 2001, recognizes democracy as a key to social, political, and economic development. This major OAS treaty contains explicit references to women's rights. Article 9 condemns discrimination based on sex, article 16 emphasizes access to education for women and girls as a key to strengthening democratic institutions, and article 28 recognizes the participation of women in political life as fundamental to the promotion of democracy.

## 8. CONCLUSIONS AND COURSES OF ACTION

CEDAW is truly a valuable tool to stimulate change toward better respect for the rights and freedoms of women. However, as emphasized by the executive director of the United Nations Development Fund for Women (UNIFEM), "the [Convention's] achievements on paper at the international level have only laid the groundwork for the real task—implementing the Convention and other human rights instruments at the national level. This is where the Convention can have real meaning for women and improve their respective living conditions and societies. The history of women's fundamental rights has only just begun."<sup>12</sup>

The functions and roles of parliamentarians make them key players in the Convention's implementation. As women legislators, representatives of the public, and parliamentarians with the responsibility of watching over government, we must take an active part in implementing the Convention and its protocol. Here are a few examples of what women parliamentarians can do:

- If the state party has issued reservations regarding the Convention, ensure that these reservations are not incompatible with the goal of the Convention and ask the government about its intention to lift the reservation

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<sup>10</sup> Cuba is not an OAS member.

<sup>11</sup> Canada, Jamaica, and the United States have neither signed nor ratified the Belém do Pará Convention.

<sup>12</sup> Noeleen Heyzer, Executive Director of UNIFEM, November 1998.

- Encourage states to accede to the Convention's optional protocol and ensure they do not plan to withdraw from the protocol's investigation procedure
- Ensure that states submit their reports to the Committee in a timely fashion, that parliament takes part in preparing it, and that the Committee's recommendations are presented and debated in the legislature
- Promote the principles and objectives of the Convention to encourage states to make their national legislation comply, notably family codes
- Ensure that the text of the Convention is distributed and known, and mobilize public opinion

Women parliamentarians hold the hopes of their fellow female citizens. They will have to translate these hopes into an end to discrimination and violence. The first step may be to convince men parliamentarians that any form of discrimination against women and girls is a human problem that compromises the development of society.

**PAÍSES DE LA CONFEDERACIÓN PARLAMENTARIA DE LAS AMÉRICAS**  
**STATES OF THE PARLIAMENTARY CONFEDERATION OF THE AMERICAS**  
**PAÍSES MEMBROS DA CONFEDERAÇÃO PARLAMENTAR DAS AMÉRICAS**  
**PAYS MEMBRES DE LA CONFÉDÉRATION PARLEMENTAIRE DES AMÉRIQUES**

Tipo de participación a la CEDAW y a su Protocolo Facultativo  
 Nature of the Participation in CEDAW and its Optional Protocol  
 Tipo de participação na CEDAW e no seu Protocolo Facultativo  
 Type de participation à la CEDEF et à son Protocole facultatif

S : Firma – Signature - Assinatura

R : Ratificación – Ratification - Ratificação

A : Adhesión – Accession – Adesão - Adhésión

PAÍS STATE PAYS	CEDAW CEDEF	RESERVAS RESERVATIONS RÉSERVES	PROTOCOLO FACULTATIVO OPTIONAL PROTOCOL PROTOCOLE FACULTATIF	ÚLTIMO INFORME ÚLTIMO RELATÓRIO LAST REPORT DERNIER RAPPORT
Antigua and Barbuda	A : 1989-08-01		A : 2006-06-05	1995
Argentina	S : 1980-07-17 R : 1985-07-15		S : 2000-02-28	2004 – Follow-up (2002, 2000)
Bahamas	A : 1993-10-06	ART.2 (A); ART.9 (PARA.2); ART.16 (H); ART.29 (PARA.1)		
Barbados	S : 1980-07-24 R : 1980-10-16			2000
Belize	S : 1980-03-07 R : 1980-05-16		A : 2002-12-09	2005
Bolivia	S : 1980-05-30 R : 1980-06-08		S : 1999-12-19 R : 2000-09-27	1991
Brasil	S : 1981-03-31 R : 1984-02-01	ART.29 (PARA.1)	S : 2001-03-13 R : 2002-06-28	2005
Canada	S : 1980-07-17 R : 1981-12-10		A : 2002-10-18	2002
Chile	S : 1980-07-17 R : 1989-12-07	Declaración en la firma: Se compromete a modificar su legislación no conforme. *	S : 1999-12-10	2004
Colombia	S : 1980-07-17 R : 1982-01-19		S : 1999-12-10	2005
Costa Rica	S : 1980-07-17 R : 1986-04-04		S : 1999-12-10 R : 2001-09-20	2003
Cuba	S : 1980-03-06 R : 1980-07-17	ART.29 <i>Protocolo – Protocol- Protocole : ART. 8 &amp; 9</i>	S : 2000-03-17	2006
Dominica	S & R : 1980-09-15			
Ecuador	S : 1980-07-17 R : 1981-11-09		S : 1999-12-10 R : 2002-02-05	2002
El Salvador	S : 1980-11-14 R : 1981-08-19	ART.29 (PARA.1)	S : 2001-04-04	2002
Grenada	S : 1980-07-17 R : 1990-08-30			



PAÍS STATE PAYS	CEDAW CEDEF	RESERVAS RESERVATIONS RÉSERVES	PROTOCOLO FACULTATIVO OPTIONAL PROTOCOL PROTOCOLE FACULTATIF	ÚLTIMO INFORME ÚLTIMO RELATÓRIO LAST REPORT DERNIER RAPPORT
Guatemala	S : 1981-06-08 R : 1982-08-12		S : 2000-09-07 R : 2002-05-09	2004
Guyana	S & R : 1980-07-17			2004
Haití	S : 1980-07-17 R : 1981-07-20			
Honduras	S : 1980-06-11 R : 1983-03-03			1992
Jamaica	S : 1980-07-17 R : 1984-10-19	ART.29 (PARA.1)		2004
México	S : 1980-07-17 R : 1981-03-23	Declaración en la firma: La concesión de prestaciones materiales dependerá de los recursos del Estado. **	S : 1999-12-10 R : 2002-03-15	2006
Nicaragua	S : 1980-07-17 R : 1981-10-27			2005
Panamá	S : 1980-06-26 R : 1981-10-29		S : 2000-06-09 R : 2001-05-09	1997
Paraguay	A : 1987-04-06		S : 1999-12-28 R : 2001-05-14	2004
Perú	S : 1981-07-23 R : 1982-09-13		S : 2000-12-22 R : 2001-04-09	2004
República Dominicana	S : 1980-07-17 R : 1982-09-02		S : 2000-03-14 R : 2001-08-10	2003
Saint Kitts and Nevis	A : 1985-04-25		A : 2006-01-20	2002
Saint Lucia	A : 1982-10-08			2005
Saint Vincent and the Grenadines	A : 1981-08-04			1991
Suriname	A : 1993-03-01			2005
Trinidad and Tobago	S : 1985-06-27 R : 1990-01-12	ART.29 (PARA.1)		2001
United States	S : 1980-07-17			
Uruguay	S : 1981-03-30 R : 1981-10-09		S : 2000-05-09 R : 2001-07-26	2002
Venezuela	S : 1980-07-17 R : 1983-05-02	ART.29 (PARA.1)	S : 2000-03-17 R : 2002-05-13	2004

MAJ : 2006-09-11

**\* Chile:**

Declaration at signing: Commitment to amending legislation that contravenes the Convention.  
 Declaração na assinatura: Comprometimento em modificar sua legislação não conforme.  
 Déclaration à la signature : S'engage à modifier sa législation non conforme.

**\*\* México:**

Declaration at signing: The granting of benefits will depend on state resources.  
 Declaração na assinatura: Concessão de assistência material dependerá dos recursos do Estado.  
 Déclaration à la signature : L'octroi de prestations matérielles dépendront des ressources de l'État.