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Convention on the Elimination of All Forms of Discrimination against Women (CEDAW): A Fact Sheet

(name redacted)

Foreign Affairs, Defense, and Trade Division*

Summary

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)¹ has been pending before the Senate Foreign Relations Committee since its submission by President Carter in 1980. The treaty requires States parties to take all appropriate measures to eliminate discrimination against women in political and public life, law, education, employment, health care, commercial transactions, and domestic relations. While the Committee briefly considered the treaty in 1994, the full Senate has never done so. The Clinton Administration has repeatedly expressed support for ratification and asked the Senate to give its approval to ratification. This report provides an overview of the Convention and U.S. position on possible adherence.

Background

The Convention on the Elimination of All Forms of Discrimination against Women, a single comprehensive treaty, was adopted by the U.N. General Assembly in 1979. In 1981, after receiving the necessary 20 ratifications, the Convention entered into force. As of January 1999, 163 countries had ratified the treaty. (See Appendix for a list of countries.) Some countries have filed reservations to a portion or portions of the Convention that conflict with existing national, customary or religious law, in areas such as nationality, citizenship, and family property, as well as women's participation in the military and the clergy.² Some countries have objected to other countries' reservations.

*This report was prepared under general supervision of (name redacted) of Foreign Affairs, Defense, and Trade Division.

¹CEDAW is used as an acronym of the treaty, the Convention on the Elimination of All Forms of Discrimination against Women, as well as the treaty body, the United Nations Committee on the Elimination of Discrimination against Women.

²The Convention permits ratification subject to reservations that are not incompatible with the object and purpose of the Convention.

Women's rights and the equality of men and women are addressed in general terms in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights. In addition, a small number of treaties deal with specific rights affecting women. However, a single comprehensive treaty to protect women's human rights was pursued as an overarching objective by women's rights advocates. In 1967 the U.N. General Assembly adopted a Declaration on the Elimination of Discrimination against Women, and in 1974 the Commission on the Status of Women³ began drafting a Convention.

The Convention requires States parties to take measures to eliminate discrimination against women in all civil, political, economic, and cultural areas. States are obliged to work for equality in public life such as in legal status and political participation, as well as in private life such as within the family. Discrimination against women 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".

The Commission on the Status of Women is currently drafting an Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. The Optional Protocol would give individuals and groups the right to complain to the Committee on the Elimination of Discrimination against Women about violations of the Convention by their governments. The Optional Protocol would allow the Committee to conduct inquiries into systematic abuses of women's human rights in countries that become party to the Protocol.⁴

The Committee on the Elimination of Discrimination against Women

Article 17 of the Convention on the Elimination of All Forms of Discrimination against Women establishes the Committee on the Elimination of Discrimination against Women to monitor the implementation of the Convention. The Committee is composed of 23 experts from diverse geographic areas and legal systems. Since its initial session in 1982, all but one of the members of the Committee have been women. The selection of members from a variety of geographical backgrounds and occupations such as sociologists, economists, diplomats, as well as the female dominance of its membership makes the Committee different from other U.N. treaty bodies that are predominantly made up of lawyers and judges. The current 23 members of the Committee are from Argentina, Bangladesh, Burkina Faso, China, Cuba, Egypt, Ethiopia, Germany, Ghana, Israel, Italy, Japan, Mexico, New Zealand, Norway, Philippines, Saint Kitts, and Nevis, South Africa, South Korea, Spain, Sri Lanka, Tunisia, and Turkey. They serve 4-year terms. Although

³The Commission on the Status of Women was established in 1946 as a functional commission of the U.N. Economic and Social Council to prepare recommendations and reports to the Council on promoting women's rights. The Commission has worked as the central intergovernmental body to elaborate policies to achieve equality between women and men.

⁴The Optional Protocol will be a treaty in its own right which countries that are parties to CEDAW may join by signature and ratification or accession.

they are nominated by their governments, they are expected to serve as experts and not as representatives of their governments.

The Committee oversees the implementation of the Convention by States parties that have ratified or acceded to it, by reviewing reports submitted by the States.⁵ A State party is to submit its first report within one year of signing the Convention. Subsequent reports are to be submitted every 4 years or whenever the Committee requests.⁶ The reporting government sends representatives to respond to Committee questions. The Committee makes suggestions and recommendations resulting in an exchange of ideas and information with States. The Committee also prepares general comments in its report of the session, emphasizing both positive areas in a State's report as well as areas of Committee concern.

During its 20th session in 1999, the Committee considered reports from countries as diverse as Liechtenstein, Kyrgyzstan, and China. In the case of Liechtenstein, the Committee found that while much progress had been made in *de jure* gender equality, "real equality" would require much additional effort to overcome such obstacles as patriarchal patterns in everyday life, sexist stereotypes in education, and limited political experience (women were granted the right to vote in 1984).⁷ In China, the Committee found extensive female illiteracy, growing unemployment, rural poverty, and increasing instances of violence against women.⁸ The Committee was concerned that despite a strengthened legislative framework to ensure women's equality, the persistence of prejudice and stereotypical attitudes toward the role of women continued to impede implementation of CEDAW in China. The Committee suggested that the Chinese government put greater emphasis on the empowerment of women as a way of implementing the Convention rather than simply seeking to protect women.⁹

The Committee reports annually on its activities and makes general recommendations to the U.N. General Assembly through the Economic and Social Council which also transmits the reports to the Commission on the Status of Women.

Administration Actions

The United States strongly supported the concept of a comprehensive and effective international treaty to eliminate discrimination against women. The United States actively participated in drafting the Convention on the Elimination of All Forms of Discrimination against Women. President Jimmy Carter signed the treaty on July 17, 1980, and submitted it to the Senate for its advice and consent to ratification on November 12 of that year.

⁵The 20th session took place from January 19 through February 5 of 1999. The Committee meets for two weeks each year, which is the shortest meeting time of any committee established under a human rights treaty. An amendment to the Convention would allow the duration of Committee meetings to be determined by States parties, but will not enter into force until accepted by a two-thirds majority of States parties.

⁶The preparation of reports is considered a time-consuming and complex task for States, and many countries have failed to submit reports by their due date.

⁷United Nations, Press Releases, WOM/1083, WOM/1084, January 25, 1999.

⁸United Nations, Press Releases, WOM/1092, WOM/1093, February 1, 1999.

⁹United Nations, Press Release, WOM/ 1097, February 8, 1999.

Neither the Reagan nor Bush administration supported ratification. It has been pending before the Senate Committee on Foreign Relations since 1980.

The Clinton Administration has strongly supported ratification. In 1994 the Administration transmitted a package with nine conditions: four reservations, three understandings and two declarations, to the Senate Committee on Foreign Relations. Among the conditions the Administration proposed reservations asserting that the United States would not accept any obligation under the Convention to regulate private conduct, to put women into combat positions, to adopt the doctrine of comparable worth and to introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances.¹⁰

On December 10, 1996, President Clinton restated his Administration's support for the ratification of CEDAW: "there is no excuse for this situation [U.S. non-ratification] to continue".¹¹ On March 11, 1998, President Clinton stated that the United States remained "alone in our hemisphere, alone among the industrialized nations of the world in not ratifying this treaty"¹². He announced a campaign for ratification of the Convention. In July, 1998, Secretary of State Madeline K. Albright repeated the Administration's support for ratification: "we persist in our efforts to persuade key members of the Senate that it is long past time for America to become party to the Convention."¹³

Congressional Actions

On September 27, 1994, the Senate Committee on Foreign Relations held a public hearing on the Convention. On September 29, the Committee adopted by voice vote an amendment offered by Senator Jesse Helms, which clarified the U.S. view that nothing in the Convention creates a right to abortion and that abortion should not be promoted as a method of family planning.¹⁴ The Committee voted (13 to 5) in favor of ratification including four reservations, four understandings and two declarations in their resolution of ratification. The Senate has not considered the treaty. The Committee believed that ratification would serve four purposes: 1) reaffirm the United States' commitment to the promotion and protection of women's rights at home and abroad; 2) enhance the credibility and effectiveness of U.S. efforts to end discrimination against women; 3) enable the United States to participate in the work of the Committee on the Elimination of

¹⁰U.S. Congress. Senate. Committee on Foreign Relations. *Convention on the Elimination of All Forms of Discrimination against Women*. Report, October 3, 1994. Washington, Government Printing Office, 1994. p. 6-8. For further information on the Administration's actions and the nine conditions, please see CRS Report, 95-191, *Human Rights Treaties: A Summary of Provisions and Status in the US Ratification Process*, p. 43-45.

¹¹President William Clinton, *Remarks by the President at Human Rights Day Event*, December 10, 1996.

¹²White House, Office of the Press Secretary, *Remarks by the President and the First Lady on International Women's Day*, March 11, 1998.

¹³Secretary of State Madeline K. Albright, *Remarks upon Her Induction into the National Women's Hall of Fame*, New York, July 11, 1998.

¹⁴SCFR, Report, p. 3, October 3, 1994.

Discrimination against Women; and 4) allow the United States to participate in the Fourth World Conference on Women as a party to the Convention.¹⁵

Arguments for Ratification. Since U.S. signing of the Convention, some Members of Congress have expressed support for ratification by the United States. While the House of Representatives does not have a direct role in treaty ratification, the House sometimes expresses its views on U.S. ratification. Thus during the 105th Congress, H. Res. 96 was introduced expressing the sense of the House that the Senate should approve CEDAW.¹⁶ During a Women's Day commemoration, Representative Edward J. Markey stated that: "Despite the fact that much of U.S. law is already in compliance with the treaty, ratification is proof that U.S. commitment to human rights is sound and not limited to just within our borders. Participation by the United States would lend significant weight to the treaty's enforcement. The United States played a major role in drafting the treaty. Now, it should stand by its commitment by ratifying it."¹⁷ More recently, Representative Constance A. Morella expressed support for ratification: "CEDAW will give the force of international law to our efforts on behalf of women's rights, and also give us the credibility to be taken seriously on this issue when we advocate with foreign governments on behalf of human rights."¹⁸

Non-congressional supporters have made similar arguments. They argue that ratification would allow the United States to participate in the Committee on the Elimination of Discrimination against Women and, thus, help to shape the interpretation of and development of practice under the treaty. Ratification would also strengthen current U.S. efforts to advance women's status globally. Domestically both federal and state laws in the United States already provide strong protections for women, and are largely consistent with the provisions of the Convention. Proponents contend that ratification would not affect U.S. sovereignty.¹⁹

Arguments against Ratification. In their minority views in the 1994 Senate Foreign Relations Committee report, Senators Brown, Coverdell, Gregg, Helms, and Kassebaum argued that they were not persuaded that the Convention was a proper or effective means of pursuing its objective. They did not accept the premise that the standards set forth by the Convention had been widely accepted by ratifying states. They noted that one in three ratifying states had made reservations to parts of the Convention. They also stressed that it is difficult to incorporate international legal codes into diverse cultural, religious, and political systems.²⁰

¹⁵SCFR, Report, p. 3-4, October 3, 1994.

¹⁶The resolution was not considered or adopted by the House.

¹⁷Congressional Record, *International Women's Day*, March 8, 1993, E529.

¹⁸Congressional Record, *Celebrating Women's History Month*, March 12, 1998, E365.

¹⁹U.S. Department of State, *Support for Women's Human Rights: Ratification of the Convention on the Elimination of All Forms of Discrimination against Women*, fact sheet, released by the Senior Coordinator for International Women's Issues, March 10, 1998.

²⁰SCFR, Report, p. 53-54, October 3, 1994.

Non-congressional opponents have raised concerns about jurisdiction. They argue that ratification would require the federal government to take actions in areas traditionally and constitutionally reserved to the states, such as in family and education. They argue that the treatment of U.S. citizens is solely a matter of U.S. domestic jurisdiction.²¹ Critics of CEDAW have also argued that ratification might lead to mandated destruction of the traditional family structure in the United States, gender-neutral education, a broadening of the scope of abortion, and possible sanctioning of same-sex marriage in a gender-neutral society.²²

Appendix State Parties and Reservations to CEDAW (Including Years When States Became Parties) As of January 1999

- 1980 Barbados, Cape Verde (a)**, China*, Cuba*, Dominica, Guyana, Hungary, Poland, Portugal, Sweden
 1981 Belarus, Bhutan, Canada, Ecuador, Egypt*, El Salvador*, Ethiopia*, Haiti, Laos, Mexico*, Mongolia, Nicaragua, Norway, Panama, Philippines, Russia, Rwanda, Saint Vincent and the Grenadines (a), Sri Lanka, Ukraine, Uruguay
 1982 Austria*, Bulgaria, Colombia, Congo, Dominican Republic, Guatemala, Guinea, Peru, Romania, Saint Lucia (a), Viet Nam*, Yugoslavia
 1983 Australia*, Denmark, France*, Gabon, Greece, Honduras, Togo (a), Venezuela*
 1984 Bangladesh (a), Brazil*, Equatorial Guinea (a), Indonesia*, Jamaica*, Kenya (a), Liberia (a), Mauritius* (a), South Korea*, Spain*, Yemen* (a)
 1985 Argentina*, Belgium*, Cyprus* (a), Germany*, Guinea-Bissau, Iceland, Ireland* (a), Italy*, Japan, Mali, New Zealand*, Nigeria, Saint Kitts and Nevis (a), Senegal, Tanzania, Thailand* (a), Tunisia*, Turkey* (a), Uganda, Zambia
 1986 Angola (a), Costa Rica, Democratic Republic of the Congo, Finland, Ghana, Iraq* (a), United Kingdom*
 1987 Burkina Faso (a), Malawi (a), Paraguay (a)
 1988 Sierra Leone
 1989 Antigua and Barbuda (a), Chile*, Libya* (a), Luxembourg*, Madagascar
 1990 Belize, Bolivia, Grenada, Trinidad and Tobago*
 1991 Central African Republic (a), Estonia (a), Israel*, Malta* (a), Nepal, Netherlands*, Zimbabwe (a)
 1992 Benin, Burundi, Cambodia (a), Croatia (s)***, Jordan*, Latvia (a), Namibia (a), Samoa (a), Seychelles (a), Slovenia (s)
 1993 Armenia (a), Bahamas* (a), Bosnia and Herzegovina (s), Czech Republic (s), Gambia, India*, Maldives* (a), Morocco* (a), Slovakia (s), Suriname (a), Tajikistan (a)
 1994 Albania (a), Cameroon, Comoros (a), Georgia (a), Kuwait* (a), Lithuania (a), Macedonia (a), Moldova (a)
 1995 Azerbaijan (a), Chad (a), Cote d'Ivoire, Eritrea (a), Fiji* (a), Lesotho*, Liechtenstein* (a), Malaysia* (a), Papua New Guinea (a), Singapore* (a), South Africa, Uzbekistan (a), Vanuatu (a)
 1996 Algeria* (a), Botswana (a), Pakistan* (a)
 1997 Andorra (a), Kyrgyzstan (a), Lebanon* (a), Mozambique, Myanmar* (a), Switzerland*, Turkmenistan (a)
 1998 Djibouti (a), Kazakhstan (a)

* Some Limitations (Reservations and Declarations)

** (a) Accession

*** (s) Succession

²¹For further information on concerns about human rights treaties, see CRS Report, 96-736, *Human Rights Treaties: Some Issues for U.S. Ratification*. This part is based on p. 4-6.

²²Concerned Women for America, *Exposing CEDAW: The United Nations Convention on the Elimination of All Forms of Discrimination Against Women*.

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