

## **CEDAW and Gender Equality**

**Dr. Disari Roy**

*Assistant Professor*

*Department of Women's Studies*

*Diamond Harbour Women's University, Sarisha, West Bengal*

---

### **Abstract:**

Human rights treaties are generally particularly ambitious, but CEDAW stands out among them in the sense that it mandates change in the public sphere. It is not enough to ensure that men and women are treated equally under national law. CEDAW prescribes fundamental changes at the legal, institutional and personal levels as well. CEDAW embodies a formal vision of equality where there are no laws that directly discriminate against women. Legally, this means that the domestic laws of states ratifying CEDAW must be gender-neutral. CEDAW not only holds States parties accountable for their own policies against gender discrimination, but also for the discrimination committed by private organizations and individuals within their borders. The Convention on the Elimination of All Forms of Discrimination against Women calls for an end to gender-based discrimination in both the private and public spheres, including the home and family, which are often perpetuated by custom, practice and religion. Against this backdrop this paper makes an attempt to highlight the structure and special provisions contained in CEDAW. Also, concrete steps taken by the Government of India to ensure gender equality have been mentioned.

**Keywords: Women, Discrimination, Gender Equality, Empowerment.**

Date of Submission: 01-11-2022

Date of Acceptance: 12-11-2022

---

### **I. Introduction**

Women's rights are a recent development in international human rights law, but the Convention on the Elimination of All Forms of Discrimination against Women ("CEDAW") was the first international convention to declare the human rights of women's rights. The Convention on the Elimination of All Forms of Discrimination against Women is the only international human rights treaty whose primary purpose is to protect and promote women's rights and to eliminate discrimination against women. The Convention on the Elimination of All Forms of Discrimination against Women was adopted by the United Nations General Assembly on 18 December 1979 and entered into force on 3 September 1981. The main purpose of CEDAW is to protect and promote women's rights and to eliminate discrimination against women. As of March 7, 2011, 186 countries (more than 90% of UN member states) are parties to the treaty. In the meantime, 189 members have participated or ratified. India signed the CEDAW in 1980 and ratified it on 9 July, 1993. Article 1 of CEDAW, a major human rights treaty for women working on gender equality, expressively defines discrimination 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." Article 3 further states that the countries that have signed the CEDAW will have to take all apposite steps to ensure the exercise and enjoyment of women's equality-based human rights and fundamental freedoms with men.

#### **1.2 CEDAW structure:**

The CEDAW, which consists of a preamble and 30 articles, defines what discrimination against women is and sets out an action plan to eliminate such discrimination.

- Part I (Articles 1-6) focuses on the prohibition of discrimination, gender stereotypes, and sexual trafficking.
- Part II (Articles 7-9) deals with women's rights in the public sphere, with a focus on the rights of political life, representation, and nationality.
- Part III (Articles 10-14) describes women's economic and social rights with a particular focus on education, employment and health.

- Part IV (Articles 15 and 16) outlines women's right to equality in marriage and family and the right to equality before the law.
- Part V (Articles 17-22) establishes a Commission on the Elimination of Discrimination against Women and the Reporting Procedures of Parties.
- Part VI (Articles 23-30) describes the impact of the Convention on other Conventions, the obligations of the Parties, and the operation of the Convention.

### **1.3 Prominent features OF CEDAW**

- The CEDAW Convention is based on three principles: prohibition of discrimination, national obligations, and substantive equality.
- CEDAW provisions challenge patriarchy and the exploitation of women.
- Equality between women and men was emphasized by ensuring women's rights to education, work and access to medical services.
- The treaty places great importance on women's reproductive rights
- The right to acquire or change or retain the nationality of a woman and the nationality of a child is formally recognized.
- CEDAW recognizes the root causes of gender discrimination and the need to eliminate traditional gender roles and stereotypes in order to end all forms of discrimination against women and girls.
- CEDAW has proven invaluable in addressing the effects of various kinds of discrimination, violence, poverty, lack of legal protection, denial of inheritance, property rights and access to credit. The purpose is to ensure that women participate in public life as equal actors, have equal opportunities in the economy and have the same autonomy as men to live in their families. This is the meaning of egalitarian citizenship for women and a practicable endorsement of democratic system for both men and women.
- This Convention sets out international standards for the protection and promotion of women's human rights and is often referred to as the "Bill on Women's Rights." It is the only international means of comprehensively addressing women's rights in political, civil, cultural, economic and social life.
- This agreement is overseen by a committee of twenty- three experts called the Committee on the Elimination of Discrimination against Women.
- Countries that have ratified the Convention must incorporate the principles of equality between men and women into their legal system, abolish all discrimination laws and enact appropriate laws prohibiting discrimination against women. The state parties are committed to submit a national report on the measures taken to fulfill the obligations of the Convention within one year of ratification, and every four years thereafter, at least every four years.
- Optional Protocol to CEDAW - The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (OP-CEDAW) is an international treaty which establishes complaint and inquiry mechanisms for the Convention on the Elimination of All Forms of Discrimination Against Women. Parties to the Protocol allow the Committee on the Elimination of Discrimination against Women to hear complaints from individuals or inquire into "grave or systematic violations" of the Convention.
- The Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) is an independent professional body that oversees the implementation of the Convention on the Elimination of All Forms of Discrimination against Women. The CEDAW Commission is made up of her 23 women's rights experts from around the world. The CEDAW Commission is the linchpin of enforcement. It relies on self-regulation by the State party, which shall submit to the Commission, within one year of ratification and every four years thereafter, a detailed report on the steps taken to implement CEDAW. Each report serves as the basis for subsequent constructive dialogue between national delegations and the CEDAW committee, during which specific areas of non-compliance are identified.

### **1.4 Initiatives adopted by the Government of India to ensure Gender Equality**

- Fundamental Rights: Guarantee the equality of all Indian citizens (Article 14), no gender discrimination (Article 15 (1)), and special provisions by the state in favour of women (Article 15 (3)).
- Directive Principles of State Policy: Equal pay for equal work (Article 39 (d)).
- Fundamental Duties: Acts that undermine the dignity of women are prohibited under Article 51 (A).
- The National Commission for Women ('NCW') was established by Parliamentary Act in 1990 to protect and uphold the rights of women.
- The 73rd and 74th Amendments (1993) to the Constitution of India have provided for reservation of seats in the local bodies of Panchayats and Municipalities for women, laying a strong foundation for their participation in decision making at the local levels.

- The National Policy on Empowerment of Women adopted in 2001 states that " All forms of violence against women, physical and mental, whether at domestic or societal levels, including those arising from customs, traditions or accepted practices shall be dealt with effectively with a view to eliminate its incidence".
- The Immoral Trafficking (Prevention) Act passed by the Indian Parliament in 1956 aims to prevent "immoral trafficking" of women and girls.
- The Pre-Conception and Pre-Natal Diagnostic Techniques (PCPNDT) Act was enacted on September 20, 1994 with the aim of banning prenatal diagnostic techniques to determine the sex of a fetus that results in a female foeticide.
- The Dowry Prohibition Act 1961: It prohibits the request, payment or acceptance of a dowry.
- Protection of Women from Domestic Violence Act 2005: It provides victims of domestic violence with a means for practical remedy through prosecution.
- The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013: This legislative act seeks to protect women from sexual harassment at their place of work.

### **1.5 Significance of CEDAW**

Even in the 21st century, many women are routinely discriminated against in all areas, including health care, education, decent work, free marriage, and equal pay for equal work. They also face violence from their families and even their partners. They often do not have a say in issues related to sexual and reproductive decisions. Women's oppression is certainly an important part of patriarchy, and the culture of patriarchy emphasizes masculinity and manhood. Focusing only on the sufferings of women, the determined goal of CEDAW, the definitive international legal means to respect and uphold women's human rights, is to eliminate gender discrimination and implement gender equality. Gender equality is essential for our sustainable future. Women's equality and empowerment are one of the 17 Sustainable Development Goals, but they are also an important part of comprehensive governance and sustainable development. Sustainable Development Goal 5 aims to achieve gender equality and empower all women and girls. The ultimate goal is to eliminate discrimination and violence against women and girls by assessing unpaid care and domestic work, ensuring full participation of women, giving access to reproductive health care and equal access to economic resources. Ending all forms of discrimination against women and girls is the need of the hour. Women and girls must have equal rights and opportunities everywhere and be free from violence and discrimination. Gender inequality hinders poverty reduction and endangers the prospects of economic and human development. We must regard gender equality not only as a condition for social justice but also as a condition for the promotion of development. CEDAW is important because it requires member states to adopt non-discriminatory laws and policies and addresses the issue of substantial equality. It is important for governments in power to enact the laws necessary to promote true gender equality and enable women to reach their full potential and abilities. This is not only a basic human right, but also a need to achieve true economic and social development of society. Gender should be understood in terms of human concerns, not women's concerns. Therefore, gender equality is a human struggle, not a female struggle. Gender equality is achieved when women, men, girls and boys have equal rights, conditions and opportunities to shape their lives and contribute to the development of society. It is about the equitable distribution of power, influence and resources in society.

### **References**

- [1]. Mohanty bedabati. (2015). *Violence Against Women: An Analysis of Contemporary Realities*. Kanishka Publishers, New Delhi, p.110.
- [2]. Pramanik, R., & Adhikary. A. ( Eds.). (2006). *Gender Inequality & Women's Empowerment*. Abhijeet Publications. New Delhi, p. 13.
- [3]. Shukla Asha & Phookan Jaya (Eds.) (2015). *Crime Against Women*. New Delhi: Serials Publications (P) Ltd., pp 82-83.
- [4]. Siddiqi and Ranganathan (Ed.), *Handbook on Women and Human Rights – A guide for social activists*, Part 1, Kanishka Publishers, Distributors, New Delhi, 2010.
- [5]. Vijayarasa, Ramona, *Quantifying CEDAW: Concrete Tools for Enhancing Accountability for Women's Rights* (May 31, 2021). *Harvard Human Rights Journal*, Vol. 34, 2021, Available at SSRN: <https://ssrn.com/abstract=3856793>.
- [6]. Waldorf, Lee. (2007) *CEDAW and the Human Rights Based Approach to Programming* (New York: United Nations Development Fund for Women).