

(Women's Rights)

UN Convention on the Elimination of Discrimination against Women (CEDAW)

In 1967 the United Nations (UN) adopted the Declaration on the Elimination of all Forms of Discrimination against Women (Women's Declaration). It is not a legally binding instrument, but it has been a key-step towards the elaboration of CEDAW.

In **1979** the UN adopted the **CEDAW**, entered into force in 1981.

CEDAW is made up of **30 Articles**, and it is based on three pillars:

- I. Non Discrimination**
- II. Substantive Equality**
- III. State Obligation**

Pillar II: Substantive Equality

We are aiming at **equality in outcome**. Non-identical treatment might be necessary in order to address women specific experiences of disadvantage. Substantive Equality might require the adoption of **affirmative action** (also called temporary special measures).

*Art. 4 of CEDAW: Adoption by States parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention; these measures **shall be discontinued** when the objectives of equality of opportunity and treatment have been achieved.*

E.g. adoption of quotas to guarantee gender balance in the workplace.

Pillar III. State Obligation

Art.3, CEDAW: *States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, **all appropriate measures**, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.*

These measures (not to be assimilated with the temporary measures/affirmative action) are measures to be adopted by the State in order to implement the principle of non-discrimination, thus guaranteeing equality. They are not (contrary to affirmative actions) temporary, but rather permanent measures that take into account biological differences between men and women (e.g: permanent special work provisions directed to pregnant women).

CEDAW Committee

A treaty based body composed of a group of **23 independent experts** on women's rights from different States that have ratified the Convention.

The Committee monitors the progress in those countries that are the States parties and the implementation of national measures to fulfil States' obligations.

Countries that are parties to the Convention must **submit reports detailing their compliance with its provisions every four years.** The Committee reviews those reports and makes (non legally binding) recommendations.

CEDAW and Individual Complaints

The CEDAW Committee is **allowed to receive individual complaints only** against States that have recognized the competence of the Committee through the ratification of the **Optional Protocol to the Convention.**

* An Optional Protocol is **another Treaty supplementing supplements the original convention** with additional obligations (in this case an enquiry procedure), so that States are free to choose whether to become part to the main Treaty only (in this case CEDAW), or to be come also part to the Optional Protocol.

The Optional Protocol entails **2 procedures**

- (1) A communications procedure allows individual women, or groups of women, to submit claims of violations of rights protected under the Convention to the Committee. In order for individual communications to be admitted, **domestic remedies must have been already exhausted.**
- (2) An inquiry procedure enables the Committee to **initiate inquiries into situations of grave or systematic violations of women's rights.** In either case, States must be party to the Convention and the Protocol.

Regional Instruments and Women's Rights

AFRICA

African Charter on Human and Peoples' Rights, Art. 18:

The State shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of women and the child as stipulated in international declarations and conventions.

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Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa

http://www.achpr.org/files/instruments/women-protocol/achpr_instr_proto_women_eng.pdf