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## WOMEN'S RIGHTS AND CORPORATE RESPONSIBILITIES

*Leila Rassekh Milani*<sup>†</sup>

### I. INTRODUCTION

Low wages, abundant supply of labor, high productivity rates, and weak labor law protections are among the attractive incentives drawing U.S. corporations to move their operations to overseas labor markets. However, human rights reports indicate that these seemingly gender-neutral traits, attractive to opportunistic businesses, disproportionately impact one segment of society: the women. A careful review of the conditions which give rise to these labor trends may very well prove that the sex of the employees or laborers is a key determining factor in cultivating these economic opportunities for corporations. Over time, these practices have drawn the attention of human rights groups and propelled the critical examination of these conditions against a backdrop of eroding national labor laws and gender-neutral international human rights instruments. The human rights reports reveal alarming statistics and challenge both the governments that allow for minimal safeguarding of individual rights of women and the corporations that take advantage of such countries and their unprotected human capital, women.

This paper will first set forth the current economic conditions that increase the competition for governments to attract mobile capital. Second, it will highlight the social and economic status of women and how their status and vulnerability as a group make them the targets for cheap and unprotected human capital. Finally, this paper will address how the U.N. Convention on the Elimination of All Forms of Discrimination

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Against Women (CEDAW) has been used to challenge the current government practices and urge corporate responsibility.

## II. WORLD ECONOMIC CONDITIONS AND THEIR IMPACT ON WOMEN

Today, nation-states are operating under a self-weakened condition and have given up considerable ground to private entities in the world economy.<sup>1</sup> For now, these stateless corporations have the upper hand with governments and hold them hostage to a labor market sans government regulations.<sup>2</sup> Governments are engaged in constant and competitive struggles to attract increasingly mobile capital.<sup>3</sup> Companies are moving jobs from country to country in response to more favorable wage rates and more flexible regulatory frameworks.<sup>4</sup> Where the country is carrying a high public debt, the government cuts public expenditures so that selective international investors do not lose confidence in them.<sup>5</sup>

According to Lucie Lamarche, women are at the heart of these economic transitions. International trade relies upon the devaluation of women's work in order to lower direct and indirect production costs.<sup>6</sup> Women's entry into the workforce has not lead to their economic independence. Their entry, coupled with the changing face of economy, has lead to the structuring of a many-tiered society, one that is differentiated by the socio-economic situation of the rich and poor, male and female.<sup>7</sup> In order to create jobs and maintain existing social programs, governments in both developed and developing countries must secure investments.<sup>8</sup> Accordingly, countries that are struggling with generally low growth rates and high unemployment are not prone to expanding equality enhancing measures that require public investment.<sup>9</sup> What gives a developing country the edge to successfully manufacture goods for the export market is its willingness to capitalize on relatively lower wage rates

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1. Maureen O'Neil, *Economic and Policy Trends: Global Challenges to Women's Rights*, in FROM BASIC NEEDS TO BASIC RIGHTS: WOMEN'S CLAIM TO HUMAN RIGHTS 63 (Margaret A. Schuler ed., 1995).

2. *Id.*

3. *Id.*

4. *Id.*

5. *Id.*

6. Lucie Lamarche, *Women's Social and Economic Rights: A Case for Real Rights*, in FROM BASIC NEEDS TO BASIC RIGHTS: WOMEN'S CLAIM TO HUMAN RIGHTS, *supra* note 1, at 88.

7. *Id.*

8. O'Neil, *supra* note 1.

9. *Id.*

and lower labor standards.<sup>10</sup> The push for raising women's wages and safeguarding their health and safety through more regulation flies in the face of a government with a fledgling economy.<sup>11</sup> Any successful organized effort to raise the wages and improve working conditions will give rise to a disgruntled investor, one that will move easily to a country with even lower wage rates and labor standards.<sup>12</sup>

The *Human Rights Watch World Report 2000 (Report)* cogently captures the current status of women workers in the world. It maintains that

the International Labour Organisation estimated that in ten years 80 percent of all women in industrialized countries and 70 percent globally would work outside the home. [However,] [a]s the numbers of women in the labor market swelled, their disproportionate responsibility for uncompensated domestic labor did not diminish. [According to] the United Nations Development Program . . . women's work burden was 113 percent that of men. In industrialized countries, women's share was 105 percent that of men. Nonetheless, women's wages lagged behind male earnings worldwide.<sup>13</sup>

The *Report* further maintains that "discriminatory hiring practices, sexual harassment, and . . . violence in the workplace"<sup>14</sup> continue to be part of women's experience in the workplace. In 1999 in the United States, murder "continued to be the leading cause of women's death in the workplace."<sup>15</sup> In Mexico, the *Report* observes, the government has neglected

its duty to protect women in the export-processing (maquiladora) sector from corporate discrimination. Human Rights Watch's research [and report] in 1998 and 1999 demonstrated that corporations operating in this sector subjected virtually all women applicants to pregnancy exams or other methods of determining pregnancy status as a condition of

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10. *Id.*

11. *Id.*

12. *Id.*

13. Human Rights Watch, *Human Rights Watch World Report 2000: Women's Human Rights*, at <http://www.hrw.org/wr2k> (last visited Nov. 7, 2000).

14. *Id.*

15. *Id.*

work; denied employment to those who were pregnant; and put those who became pregnant after being hired at risk of being fired.<sup>16</sup>

In Colombia, a study of the employment practices of the flower industry showed that the flower workers were recruited from the same sector of the workforce as housekeepers.<sup>17</sup> Their salaries were below the minimum wage, and working conditions were almost slave-like.<sup>18</sup> Nonetheless, there was a "reserve army" of females with no professional experience who were willing to accept low wages.<sup>19</sup> Through an interview process, some workers indicated that some companies who send representatives to recruit workers in the working class areas of Bogotá ask women to take a pregnancy test.<sup>20</sup> The results are then sent directly to the company.<sup>21</sup> "When the results are negative, the chances of getting hired improve significantly."<sup>22</sup> In addition to discriminatory practices, the health and safety of these women are ignored. Severe respiratory afflictions, headaches, dizziness, cramps, weakness, fainting, muscle pains in the back and arms and pain in the kidneys are very common.<sup>23</sup> Finally, the insecticides have long-term effects on the worker's nervous system, leading to paralysis of limbs that require neurological treatment and long periods of recovery.<sup>24</sup>

Although the aforementioned examples of women's employment conditions throughout the world are not exhaustive, they are a more than adequate depiction of women's predicament. These human rights reports are a tell tale of how governments' and corporations' disregard for women's agency translates into benefit-driven rather than rights-driven employment policies and practices. The appropriate question then must be whether the vast volume of international law includes provisions for addressing such abuses.

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16. *Id.*

17. Gladys Acosta Vargas, *Flowers That Kill: The Case of the Colombian Flower Workers*, in FROM BASIC NEEDS TO BASIC RIGHTS: WOMEN'S CLAIM TO HUMAN RIGHTS, *supra* note 1, at 173 (citing A.E. Silva, *De Mujer Campesina a Obrera Florista*, in 1 LA REALIDAD COLOMBIANA. DEBATE SOBRE LA MUJER EN AMERICA LATINA Y EL CARIBE 28-42 (Magdalena Leon ed., Bogotá: Asociacion Colombiana para el Estudio de la Poblacion 1982)).

18. *Id.*

19. *Id.*

20. *Id.*

21. *Id.*

22. *Id.*

23. Vargas, *supra* note 17, at 176.

24. *Id.*

### III. ARE THESE VIOLATIONS ADDRESSED THROUGH INTERNATIONAL INSTRUMENTS?

The presence of international corporations and their opportunistic methods of operation demand that any responsible review of human rights conditions take into account the role of corporations and assign due accountability for any work-related human rights violations. In a recent article, Arvind Ganesan maintains

[f]ifty years after the Universal Declaration of Human Rights, even the most abusive governments at least pay lip service to its principles. They respond to United Nations initiatives and to those from private organizations such as mine, Human Rights Watch. But that's only half the story. In an era of global business in which more and more corporations routinely do business outside their home country, many of these companies still argue that they don't bear any responsibility for human rights in the places where they trade and invest. If protesters are beaten up, or people being tortured, it always is the host government that is to blame – never the companies.<sup>25</sup>

Giving credit where credit is due, Ganesan mentions that in the last ten years more corporations have addressed human rights issues directly. Citing the footwear and apparel industry, he identifies the fear of destroying “the corporate image” as the catalyst for change.<sup>26</sup> Unfortunately, though, where the abuses are not as clear and alarming to society, especially where they affect the less conspicuous rights such as privacy, playing the corporate image card has not given way to corporate policy changes. Here is where international instruments that call for a paradigm shift in addressing women's rights as human rights must be highlighted and examined.

On December 18, 1979, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)<sup>27</sup> was adopted by the U.N. General Assembly. It entered into force as an international treaty on September 3, 1981 after the twentieth country had ratified it. The

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25. Arvind Ganesan, *Business and Human Rights—The Bottom Line*, Human Rights Watch, at <http://www.hrw.org/hrw/advocacy/corporations/commentary.htm> (last visited Nov. 7, 2000).

26. *Id.*

27. Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, G.A. Res. 34/180, U.N. GAOR, 34<sup>th</sup> Sess., Supp. No. 46, U.N. Doc. A/34/180 (1979), 1249 U.N.T.S. 13 (entered into force Sept. 3, 1981) [hereinafter CEDAW].

Convention, an international “Bill of Rights” for women, is the culmination of more than thirty years of work by the U.N. Commission on the Status of Women. As of September 2000, 166<sup>28</sup> countries have ratified the Convention. It is the only international instrument that comprehensively addresses women’s rights within political, cultural, economic, social and family life.

The creation of this treaty was the first critical step in developing the appropriate human rights language for women. CEDAW has set the stage for a paradigm shift; a shift that carries with it the understanding that women’s rights are human rights. According to Noeleen Heyzer, 1998 executive director of UNIFEM, “[w]omen’s rights as human rights, in a realistic and viable form, have only recently been accepted by the international community as part of the human rights lexicon.”<sup>29</sup> The efforts to implement CEDAW and other human rights instruments at the national level set the stage for the development of the history of women’s human rights.<sup>30</sup> While the “existence of a positive legal framework for women’s rights does not automatically confer rights on women . . . it does legitimize women’s claims for rights.”<sup>31</sup> It gives rise to women’s agency.<sup>32</sup>

One of the major obstacles particular to the issue of women’s rights is the fact that centuries of oppression and human rights abuses are deeply imbedded in cultural, religious, or social practices and overcoming them seem at times insurmountable. However, these imbedded beliefs have propelled in CEDAW a mandate for the achievement of substantive equality for women—a mandate that requires not only formal legal equality but also equality of results in real terms.<sup>33</sup> CEDAW’s unique nature provides for a dynamic, proactive approach to women’s

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28. On September 7, 2000, Saudi Arabia ratified the Convention. This year marks the 20<sup>th</sup> year that CEDAW has been available for U.S. ratification, but the Senate has yet to ratify it. This inaction puts the United States in the company of such nations as North Korea, Sudan, Somalia, and Iran.

29. Noeleen Heyzer, *Foreward* to UNITED NATIONS DEVELOPMENT FUND FOR WOMEN (UNIFEM), *BRINGING EQUALITY HOME: IMPLEMENTING THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN CEDAW 7* (Ilana Landsberg-Lewis ed., 1998), available at <http://www.unifem.undp.org/cedaw/indexen.htm> [hereinafter *BRINGING EQUALITY HOME*].

30. *Id.*

31. Shanthy Dairiam, *Introduction* to *BRINGING EQUALITY HOME*, *supra* note 29, at 9.

32. *Id.*

33. *Id.* at 8.

advancement.<sup>34</sup> Accordingly, CEDAW calls for positive actions to promote and protect the rights of women.<sup>35</sup>

As maintained by Fernando Tesón, any liberal theory of international law “must . . . postulate an affirmative obligation in international law on the part of the state to have a reasonably effective legal system in which assaults against life, physical integrity, and property are not tolerated.”<sup>36</sup> CEDAW imposes such a duty on states and makes states “primarily responsible for protecting individuals under international law [rather than] delegating this duty to an international organization.”<sup>37</sup> CEDAW’s commitment to eliminate and penalize all practices that have as their purpose or effect discrimination against women in political, social, economic, cultural, and other spheres<sup>38</sup> applies to preventing discrimination by public officials, private individuals, businesses, and organizations. CEDAW imposes positive obligations on signatories to promote: “the full development and advancement of women”;<sup>39</sup> cultural and social change to eliminate prejudices and stereotypes;<sup>40</sup> an understanding of maternity and the common responsibility of men and women to raise children;<sup>41</sup> and equal opportunity to participate in the national and international political life of the state.<sup>42</sup>

The paramount action-causing agent in implementing CEDAW is the political will of governments. That political will is developed to the extent that constituencies, religious groups, civic groups, legal groups, women’s groups, and government agencies put forth their own expectations.<sup>43</sup> As a means of considering and reviewing the progress made in the implementation of the present Convention, and as a means of holding governments accountable to their promises and commitments, CEDAW establishes a Committee on the Elimination of Discrimination against

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34. *Id.*

35. *Id.* CEDAW requires states to “take all appropriate measures” to protect women against harms unique to them as well as discrimination against them. CEDAW, *supra* note 27, arts. 6-7. Appropriate measures may include protective legislation or prosecution of private individuals or corporations that violate women’s human rights.

36. Fernando R. Tesón, *Feminism and International Law: A Reply*, 33 VA. J. INT’L L. 647, 659 (1993).

37. Aaron Xavier Fellmeth, *Feminism and International Law: Theory, Methodology, and Substantive Reform*, 22 HUM. RTS. Q. 658, 681 (2000).

38. CEDAW, *supra* note 27, arts. 1-2, 9-13, 15-16.

39. *Id.* art. 3.

40. *Id.* art. 5(a).

41. *Id.* art. 5(b).

42. *Id.* arts. 7-8. See Fellmeth, *supra* note 37, at 709-10.

43. Dairiam, *supra* note 31, at 9.



Women (Committee).<sup>44</sup> This Committee of twenty-three independent experts commenced its work in 1982 and since that time has held twenty-two sessions, at which it has reviewed hundreds of government reports<sup>45</sup> and assessed the extent to which the Convention has been implemented at the national level.<sup>46</sup>

In this process, those calling for national change are called upon to link the norms of the Convention to the international mandate of equality and non-discrimination at the ground level. Groups monitoring their country's commitment to equality are called upon to develop a relationship with the CEDAW Committee. It is through the CEDAW Committee that women's perspectives, understandings, and expectations find a voice. This voice increases the Convention's scope for domestic application, contributes to the historic development of women's rights jurisprudence within the United Nations system, and helps form the much-needed universal minimum standards of human rights.<sup>47</sup>

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44. CEDAW, *supra* note 27, art. 17.

45. Article 18 of CEDAW states:

1. State Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect:

- (a) Within one year after the entry into force for the State concerned;
- (b) Thereafter at least every four years and further whenever the Committee so requests.

2. Reports may indicate factors and difficulties affecting the degree of fulfillment of obligations under the present Convention.

*Id.* art. 18.

46. Marilou McPhedran et al., *The First CEDAW Impact Study: Final Report*, (York University Centre for Feminist Research & The International Women's Rights Project), 2000, at 12, available at <http://www.yorku.ca/iwrp/CEDAW%20Impact%20Study.htm>.

47. Dairiam, *supra* note 31, at 9. The opponents of CEDAW take issue with the notion that this treaty can set a universal minimum standard of human rights. In a statement to the U.S. Congress dated March 8, 2000, Senator Jesse Helms maintained that CEDAW "is a terrible treaty negotiated by radical feminists with the intent of enshrining their radical antifamily agenda into international law." 146 CONG. REC. S1276 (2000) (statement of Sen. Helms). However, according to Shanthi Dairiam, Director of International Women's Rights Action Watch Asia Pacific, through women's participation CEDAW can transform into a truly living instrument, and these women and their different voices can be the catalyst in establishing norms and setting standards for women's human rights. Dairiam further indicates that "the participation of women from all regions—and in all their diversity—in the setting of international norms is also critical because of the need for

#### IV. CAN CEDAW MAKE A DIFFERENCE? HAS CEDAW MADE A DIFFERENCE?

As maintained by Fellmeth, even in the United States when the government has attempted "to link workers rights or related concerns with trade laws . . . (through the Generalized System of Preferences,<sup>48</sup> Overseas Private Investment Corporation,<sup>49</sup> the 1974 Trade Act,<sup>50</sup> the 1988 Omnibus Trade and Competitiveness Act,<sup>51</sup> or the Caribbean Basin Initiative<sup>52</sup>), the laws do not contain antidiscrimination provisions that would benefit female workers."<sup>53</sup> In fact, economic treaties neglect women's wealth inequality and their specific interests. Furthermore, domestic implementation laws of these treaties follow that trend. As maintained by Karen F. Travis, "worker's rights-related US trade law ignores principles of equality of opportunity and treatment, and it also misses an opportunity to benefit female workers in the export sector of economically less-developed countries."<sup>54</sup>

Article 11 of CEDAW calls for the end of discrimination in the field of employment, including the right to work, to employment opportunities, to equal remuneration, to free choice of profession and employment, to social security, and to protection of health, including maternal health, and also in regard to discrimination on the grounds of marriage or maternity.<sup>55</sup> Although Article 11 does not expressly address the issue of sexual harassment in the workplace, the Committee has interpreted Article 11 to prohibit workplace harassment as a form of gender-specific violence.<sup>56</sup> The essential message advanced by CEDAW is "that policies and laws should

universal minimum standards of human rights. This is so especially in light of the rising fundamentalism in many countries around the world." Dairiam, *supra* note 31, at 9.

48. 19 U.S.C.A. §§ 2462(b)(2)(G), (c)(7) (West 1999), *cited in* Fellmeth, *supra* note 37, at 718.

49. 22 U.S.C.A. § 2191a(a) (West Supp. 2000), *cited in* Fellmeth, *supra* note 37, at 718.

50. Trade Act of 1974, Pub. L. No. 93-618, 88 Stat. 1978 (codified as amended in scattered sections of 19 U.S.C.), *cited in* Fellmeth, *supra* note 37, at 718.

51. Omnibus Trade and Competitiveness Act of 1988, Pub. L. No. 100-418, 102 Stat. 1107 (codified as amended in scattered sections of U.S.C.), *cited in* Fellmeth, *supra* note 37, at 718.

52. 19 U.S.C.A. §§ 2702(b)(7), (c)(8) (West 1999), *cited in* Fellmeth, *supra* note 37, at 718.

53. Fellmeth, *supra* note 37, at 718.

54. *Id.* at 719-20 (citing Karen F. Travis, *Women in Global Production and Worker Rights Provisions in U.S. Trade Laws*, 17 YALE J. INT'L L. 173 (1992)).

55. CEDAW, *supra* note 27, art. 11.

56. General Recommendation No. 12, Report of the Committee on the Elimination of Discrimination Against Women, 8<sup>th</sup> Sess., U.N. Doc. A/44/38 (1989), *available at* <http://www.un.org/womenwatch/daw/cedaw/recomm.htm> (last visited Jan. 30, 2001).

not disadvantage women.”<sup>57</sup> “If policies and laws leave women poorer, sicker, less able than men to move about freely, then they should be changed.”<sup>58</sup> The international standards set by CEDAW further aver that issues of fairness are not dreams of small groups of feminists, but rather that they have been agreed to, at some level, by the international community.<sup>59</sup> Moreover, however incremental the changes that are brought about as a result of CEDAW’s implementation, they build the foundation of both government and corporation accountability.

#### V. CEDAW IN ACTION: CAN CEDAW DO ANYTHING FOR WOMEN?

The question of whether CEDAW can really do anything for women has been at the forefront of most substantive discussions regarding CEDAW. The booklet, *Bringing Equality Home: Implementing the Convention on the Elimination of All Forms of Discrimination Against Women*,<sup>60</sup> effectively captures a survey of case studies that are a testament to the achievements ushered in through countries’ ratification of CEDAW. This survey shows that around the world, CEDAW has been employed to “define norms for constitutional guarantees of women’s human rights, to interpret laws, to mandate proactive, pro-women policies, and to dismantle discrimination.”<sup>61</sup> However, to focus the attention on employment practices, the following sets forth three examples of how CEDAW has brought an incremental, yet tangible, change in countries with documented gender-based human rights abuses practiced by corporations and ignored by governments.

Mexico signed CEDAW in July 1980 and ratified it by March 1981.<sup>62</sup> In its periodic report to the U.N. Committee on CEDAW on January 30, 1998, representatives of the government of Mexico maintained “that the Mexican constitution guaranteed equal rights for women and men” and that “the constitution explicitly mentioned women’s equal rights in the areas of education, family planning, nationality, employment, wages and political participation.”<sup>63</sup> The government of Mexico enumerated on a

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57. O’Neil, *supra* note 1, at 59.

58. *Id.*

59. *Id.*

60. See source cited *supra* note 29.

61. Dairiam, *supra* note 31, at 8.

62. U.N. OFFICE OF LEGAL AFFAIRS, MULTILATERAL TREATIES DEPOSITED WITH THE SECRETARY-GENERAL at 187, U.N. Doc. ST/LEG/SER.E/18, U.N. Sales No. E.00.V.2 (2000) [hereinafter MULTILATERAL TREATIES].

63. *Report of the Committee on the Elimination of Discrimination Against Women, 18<sup>th</sup> Sess.*, U.N. GAOR, 53d Sess., Supp. No. 38, at 32, U.N. Doc. A/53/38 (1998) [hereinafter

series of constructive actions taken to further enhance the advancement of women and realize its commitment to elimination of discrimination against women. Some of the key steps were:

361. The representative stated that women in the paid labour force had to cope with the double burden of work and family responsibilities and tended to be concentrated in the lower paid professions. The Mexican Government paid special attention to the need to train women under the Training Fellowships for Unemployed Workers Programme of the Ministry of Labor.

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362. Households headed by women were most vulnerable to poverty. In order to combat poverty, the Mexican Government had been implementing the Food, Health and Education Programme, established in 1997. The Programme was establishing a series of affirmative measures in favour of the female population, after recognizing the disadvantages faced by women and girls in terms of food, education and health. The Government also provided micro-credits to women and supported women entrepreneurs.<sup>64</sup>

While the Committee praised the numerous efforts expended by the government of Mexico to implement CEDAW and significantly improve the lives of women in that country, it also expressed its concern with regard to the de facto discrimination of women workers in factories where the Mexican labor legislation was violated.<sup>65</sup> Furthermore, the Committee expressed its concern with regard to the situation in some areas where equal salary for work of equal value was ignored.<sup>66</sup> Finally, the Committee noted the discriminatory practice of "mandatory pregnancy tests as a condition of employment" for women of child-bearing age.<sup>67</sup> The Committee recommended that the government "continue to monitor compliance with labour laws in the factories and pursue the work of raising awareness among factory employers."<sup>68</sup> "The Committee [further] suggest[ed] that action be taken against employers who discriminate against women on grounds of pregnancy. The women concerned should

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*Report of the Committee, 18<sup>th</sup> Sess.*].

64. *Id.* at 32-33.

65. *Id.* at 34.

66. *Id.*

67. *Id.*

68. *Id.* at 35.

be supported, and society sent a clear signal that such discrimination is not to be tolerated.”<sup>69</sup>

Colombia signed CEDAW in July 1980.<sup>70</sup> It proceeded to ratify it in January 1982.<sup>71</sup> The CEDAW Committee considered Colombia's third and fourth periodic reports at its 422<sup>nd</sup> and 423<sup>rd</sup> meetings held February 3, 1999.<sup>72</sup> Among the critical points made by the government representative, it was noted that an increasing number of women were entering the labor market, in particular in the urban areas. The representative also noted that despite their level of education, women received lower wages than men and occupied fewer decision-making positions.<sup>73</sup> After careful review of the government's report, the Committee noted its concern “that, although maternity protection [was] ensured by law and provision is made for maternity leave in the relevant legislation, the law [was] sometimes broken and women [were asked to] meet [questionable] requirements in order to have access to jobs, such as undergoing pregnancy tests.”<sup>74</sup> Accordingly, “the Committee recommend[ed] that steps be taken to ensure compliance with the law and those who engage in such discriminatory practices [were] punished.”<sup>75</sup> The Committee further maintained “that women must be made aware of their rights through wider dissemination of legislation providing protection for them as workers.”<sup>76</sup> The Committee noted with concern the widespread practice of child labor in Colombia, and highlighted how it leads “to the exploitation of girls and the violation of their rights to health, education and future opportunities.”<sup>77</sup> Finally, the Committee urged the government of Colombia “to adopt and implement a compulsory education policy, . . . [as] one of the most effective ways of ensuring that girls do not work during school hours.”<sup>78</sup>

In 1984 the Republic of Korea became the 90<sup>th</sup> country to ratify the CEDAW.<sup>79</sup> Less than twenty years ago, the traditional patriarchal

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69. *Report of the Committee, 18<sup>th</sup> Sess., supra* note 63, at 36.

70. MULTILATERAL TREATIES, *supra* note 62, at 186.

71. *Id.*

72. *Report of the Committee on the Elimination of Discrimination Against Women, 20<sup>th</sup> Sess., U.N. GAOR, 54<sup>th</sup> Sess., Supp. No. 38, at 36, U.N. Doc. A/54/38 (1999) [hereinafter Report of the Committee, 20<sup>th</sup> Sess.]*

73. *Id.* at 37.

74. *Id.* at 40.

75. *Id.*

76. *Id.*

77. *Id.*

78. *Report of the Committee, 20<sup>th</sup> Sess., supra* note 72, at 40.

79. MULTILATERAL TREATIES, *supra* note 62, at 187.

ideology, allowing for discrimination between men and women, was prevalent in that society. Women occupied only the low-waged, simple, and auxiliary jobs, and in 1985 their average wage was 45.2 percent compared to that of men's. In 1985 a lawsuit against a semi-government company which had retired women much earlier than men was first brought, and in the following year the leading women's movement groups raised official objection to the bylaws of various companies forcing women to retire upon marriage. Through this process, women's demands for maternity protection, job security, and child care facilities became pressing issues, and the women's movement for gender equality was strengthened. It was in this social atmosphere that the Korean government ratified CEDAW.<sup>80</sup>

The Equal Employment Act, enacted on October 30, 1987, was the first action taken by the government of Korea after the ratification of CEDAW. In 1999, after more than a decade's struggle, the women's non-governmental organizations were able to include articles on sexual harassment and indirect discrimination in the Act.<sup>81</sup> Following the revision of the Act, corporations took an active stance on this matter, declaring a "war against sexual harassment in the workplace" and reinforcing preventive measures.<sup>82</sup>

## VI. CEDAW INACTION—U.S. RATIFICATION

After active U.S. involvement in the Convention's negotiation, President Jimmy Carter signed it on behalf of the United States on July 17, 1980 and sent it to the Senate Foreign Relations Committee in November 1980, nearly twenty years ago. The Senate failed to take action during the Carter Administration. In 1995 the United States publicly stated its intention to ratify the CEDAW by the year 2000 during the Fourth World Conference on Women in Beijing. This was in accordance with a provision of the Conference's Beijing Platform for Action that urged universal ratification of the Convention by the year 2000. To date the Convention sits in the Senate Foreign Relations Committee, and no action has taken place.

As one of the few nations that has failed to ratify CEDAW, the United States compromises its credibility as a leader for human rights and sends a strong message to its corporations that they are not accountable to or bound by the internationally agreed upon standards when it comes to

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80. McPhedran, *supra* note 46, at 187.

81. *Id.* at 188.

82. *Id.* at 200.

women's rights. CEDAW is a tool that women around the world are using in their struggle against the effects of discrimination: violence against women, poverty, lack of legal status, no right to inherit or own property, and access to credit. Women need the United States to speak loudly and clearly in support of CEDAW so that it becomes a stronger instrument in support of their struggles. Without U.S. ratification, other governments can more easily ignore the Convention's mandate and their obligations under it.

Ratification of the Convention will entitle the United States to nominate a U.S. expert to be a member of the Supervisory Committee. In this capacity, the U.S. expert could bring the benefit of U.S. experience in combating discrimination against women to this international forum. U.S. failure to ratify CEDAW deprives it of the opportunity to share its experiences and effect positive change.

## VII. CONCLUSION

As women become convinced of the legitimacy of their rights, demands arise for international and national mechanisms through which women can claim these rights. As maintained in the Impact Study Report, in South Korea "the women's movement was the one that contributed most to achieving the goals of gender equality and heightening the status of women. CEDAW was a vehicle used to achieve [their] goals of women's liberation."<sup>83</sup> These demands and expectations, with the force of their proponents, once translated into laws and implemented through regulations will, in time and through process, extend to corporations. These changes will bring about advances in the social and economic rights of women, and as a result, will positively impact their societies, communities, and nations. According to a UNIFEM publication, "[i]n working toward the universal ratification of CEDAW, decision-makers recognize the unique opportunity it offers to hoist economic equity high on the world's development agenda, not because it enhances human progress, but because none is now possible without it."<sup>84</sup>

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83. McPhedran, *supra* note 46, at 12.

84. UNITED NATIONS DEVELOPMENT FUND FOR WOMEN, *Statement on CEDAW and Economic Rights*, at <http://www.unifem.undp.org/> (last modified July 14, 2000).