

GUIDEBOOK on CEDAW

United Nations Convention on the Elimination of All Forms of Discrimination Against Women



Sculpture by Danish artist Starcke represents hope.
The sculpture is in the Trusteeship Chamber, UN headquarters, NYC.
Photo by © J. Follows

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League of Women Voters of the Fairfax Area is a nonpartisan organization that encourages the informed and active participation of citizens in government, works to increase understanding of major public policy issues, and influences public policy through education and advocacy. Contact: jill.follows@lww-fairfax.org (Co-lead author)



Human Rights Special Interest Group (HR-SIG) is the co-lead author of the GUIDEBOOK on CEDAW. HR-SIG is a non-profit, research-based, independent entity. Its mission is to inspire local community efforts to educate, advocate, and implement international human rights policies and goals.



Fairfax County (VA) Commission For Women

OVERVIEW

The United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is the worldwide norm promoting human rights for women. CEDAW embraces women's empowerment and creates a process for identifying, assessing and eliminating discriminatory actions that target and impact women and girls.

On February 3, 2021, the Virginia House of Delegates passed HR277 commemorating the 40th anniversary of CEDAW and charting Virginia's course to conduct a gender equity assessment on all state departments, boards, authorities and commissions, followed by the designation of a task force to support this action.

The contributors and supporters of this GUIDEBOOK on CEDAW look forward to the passing of a Resolution in support of CEDAW in Fairfax County. When the resolution is passed, Fairfax County will join many other forward-thinking US cities and counties. The resolution will call for, among other initiatives: better access to data on the status of women in Fairfax County; editing of local codes to foster gender neutral policies; and promotion of gender equity in employment, economic development, and health care. In addition, it will call for the creation of a transparent process for the County's reporting on human rights violations against women and girls, especially reporting on violence against women and girls, and a gender analysis to monitor discrimination in the budget process.

An overwhelming number of industrialized nations and Third World countries have ratified CEDAW, agreeing to take all justifiable measures to end all forms of discrimination against women, improve the status of women, and enact *de jure* and *de facto* measures of equality between men and women. (*de jure* means entitled by right; *de facto* denotes a practice in fact even if not recognized officially)

The United States is an outlier country. It has not ratified CEDAW and condemned discrimination against women along with most other nations. The US forsakes CEDAW's fundamental and normative human rights framework supporting the equality of women and ending discrimination against all women and girls everywhere. In the US, factually inaccurate statements and partisan politics obfuscate the purpose of CEDAW and harm women's rights to live as free and equal human beings.

We proceed with optimism and reflect on the positive steps taken years ago when then Sen. Joseph Biden (now President Biden) chaired the Senate Committee on Foreign Relations and presided over a Senate Hearing on CEDAW. The majority report from the Senate committee voted in favor of advising the president to consent to CEDAW.

With human rights principles guiding our way and perseverance at our core, the time has come to leverage the support of elected leadership in Fairfax County to endorse the human rights norms embodied in CEDAW. We urge Fairfax County leadership to step up and pass a resolution supporting the elimination of all forms of discrimination against women and girls. This will be a stepping stone toward universal and fundamental acknowledgement of human rights for women and girls.

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This image is a small section of a 1200 square foot wall canvas designed by artist Peter Colfs and executed under the direction of Gaspard de Wit. The tapestry depicts peace, prosperity and equality. It was gifted to the UN by Belgium in 1954. It is believed to be the largest canvas ever woven. It is said that the yarn would stretch around the Earth's equator four times. The canvas hangs in UN headquarters in NYC. Photo by © J. Follows.

FREQUENTLY ASKED QUESTIONS

How do you pronounce CEDAW?

(see daw) rhymes with seesaw

What does the acronym CEDAW stand for?

Convention on the Elimination of All Forms of
Discrimination Against Women



Mural near UN headquarters
2019 Photo by ©J. Follows

Is CEDAW a United Nations human rights convention?

Yes. CEDAW is one of the UN's nine "core" international human rights instruments. It is overseen by the United Nations Office of the High Commissioner on Human Rights, headquartered in Geneva, Switzerland.

What is a convention and how is it different from a treaty?

A convention is a document that expands the body of international human rights law and that is written by an international body, such as the United Nations, and sets international *norms*. The convention, once ratified by a country may be used by civil society organizations and politicians in that country to demand change. A convention, such as CEDAW, may affect multiple countries. A treaty is usually written between specific, sometimes only two, parties. For example, the parties at the end of a war may draft and sign a peace treaty. The terms convention and treaty are often used interchangeably. (For our purposes, the distinction between these terms is much ado about nothing.)

What are human rights?

"Human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Human rights include the right to life, liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more. Everyone is entitled to these rights, without discrimination." <https://www.un.org/en/global-issues/human-rights>

Is CEDAW a global norm?

Yes. CEDAW was adopted by the United Nations General Assembly in 1979. It has already been ratified by nearly every one of the Member States at the United Nations. CEDAW declares women's equality and stands for women's right to be free from discrimination and violence. CEDAW holds government's responsible for fulfilling their obligations under this convention. Many countries have cited CEDAW in their domestic laws, including the Australian Law Reform Commission that said "Equality in law, as required by CEDAW, needs to be understood in a different and more substantial sense than merely equality before the law. Any understanding of equality must take account of the social and historical disadvantages of women and how that affected the law." (Baldez, Lisa. *Defying Convention*, p. 128 citing Brynes, Andrew C., University of New South Wales Faculty Law Research Paper No. 2010-2017 at page 12)

How is CEDAW different from other international human rights instruments?

CEDAW obligates countries to take "all appropriate measures" to eliminate discrimination against women. By way of contrast, the Beijing Platform for Action outlines an *agenda* and the UN Security Council Resolution 1325 *urges* countries to comply with CEDAW. (Baldez, p. 100)

Did the United States of America ratify CEDAW?

No. The U.S. Senate has held many hearings on CEDAW since 1988 but has never taken a vote that would provide advice and consent on this Convention to the president. Under the U.S. Constitution, the US Senate must vote, by supermajority (2/3) to adopt a United Nations convention. "In the United States, the process generally works like this: the president signs a treaty, signaling an intention to ratify. The president then transmits the treaty to the Senate for its advice and consent. Treaties begin their legislative journey in the Senate Committee on Foreign Relations, which holds a public hearing to discuss ratification and then votes on whether to send the treaty for a vote on a resolution of ratification on the Senate floor." (Senate approves or rejects a resolution). (Baldez, p. 25)

If ratified eventually by the US, will CEDAW radically change U.S. laws regarding discrimination against women?

No. CEDAW is a process. It is a blueprint for achieving women's full equality and freedom from discrimination and violence. CEDAW provides guidance and sets up mechanisms for signatory nations to follow the forward-facing movement toward human rights for women worldwide.

CEDAW cannot impose policies on countries or require countries to adopt specific policies.

“Ratification of CEDAW precipitates a dynamic process by which domestic political actors can work to bring about change. By ratifying CEDAW, countries take on a legal obligation to comply and make a public commitment to the standards articulated in the convention.” (Baldez, p. 131)

“The vision of CEDAW as exerting a direct impact on policy outcomes has impeded the prospects for ratification in the United States.” (Baldez, p. 131)

The US adopted other UN human rights treaties and called them “non-self-executing.” What does that mean?

In the US, international human rights treaties are treated as non-self-executing. In other words, the treaties, even after adoption, do not have legal weight in the US, unless and until the US Congress passes legislation enacting specific articles in the human rights treaty.

How does CEDAW work?

CEDAW creates a process that encourages face-to-face dialogue between nations and the CEDAW Committee that, in turn, motivates country delegates to discuss the universal norms of women’s human rights. This process acts to solidify international norms.

Each member country writes a periodic report and submits it to the CEDAW Committee. The Committee reviews the report and writes a list of questions for the government, which it must answer in writing. The CEDAW Committee holds a session (each session lasts 3 weeks; about 7-12 countries present reports) at the UN where the delegation from a government has a dialogue with the Committee about its compliance with CEDAW. The Committee meets with NGOs from the country and finally issues Concluding Observations (drafted by the rapporteur assigned to the country). The Concluding Observations discuss a country’s progress on CEDAW implementation, concerns about limited progress, and recommended actions.

<http://www2.ohchr.org/english/bodies/cedaw/sessions.htm>

Concluding Observations are not legally binding. Rather, they serve to focus the work of NGOs and encourage critical thinking and targeted questioning to legislators charged with ensuring the human rights of all people.

A periodic report is a government's report that shows what progress it has made to "giving effect" to CEDAW. (Article 18 CEDAW) Part one of the periodic report gives data and Part two gives information on the *de jure* status of women in the country regarding Articles 1-16.

The CEDAW Committee can call on a government to appear over and over again and to submit reports (Article 18 (l) (b) in addition to the initial report and the periodic report.

What is the CEDAW Committee?

The CEDAW Committee is a group of independent experts, nominated by ratifying nations, who meet to discuss the interpretation of CEDAW and administer the treaty. The 23 independent experts are NOT official representatives from any government. CEDAW Committee sessions are open to the public. The Committee issues General Recommendations (GRs) occasionally. The GRs interpret the treaty. (Article 21 CEDAW) The GRs are general and advise all the member countries how they shall report on issues and comply and interpret CEDAW. The GRs are the *view* of the Committee but not a ruling or judgement. (Baldez, p. 112)

What are some examples of General Recommendations (GR)?

(GR 14-18)- Identifies issues that are deemed discriminatory such as female circumcision, AIDS, employment in the informal sector, unpaid household labor, disability

(GR 19)-Talks about violence against women (the text of CEDAW does not mention it) and affirms that the definition of discrimination found in CEDAW applies to both public and private action.

(GR 21)- Covers equality in marriage and family relations; says that polygamous marriages contravene equality between men and women

(GR 23)- Outlines the obstacles faced by women who participate in public life, such as the "gap between *de jure* and *de facto* status of women that surrounds issues, such as stereotypes, paid and unpaid labor, less access to political information, and the design of the electoral systems. (Baldez, p. 113)

(GR 24)- Discusses women's health; calls for judicial action to ensure compliance with CEDAW and make sure there is no impunity for those practicing harmful traditional

practices (Baldez, p. 115) such as female genital mutilation, polygamy, and marital rape that may expose women and girls to HIV/AIDS. GR 24 mentions abortion in this way: “When possible, legislation criminalizing abortion could be amended to remove punitive provisions imposed on women who undergo abortion.” (This language appears in a GR but nowhere in the general text of CEDAW.) The GR does not advocate for abortion, or define abortion as a basic human right.

(GR 25)- Spells out the Committee’s vision for CEDAW: the member states shall eliminate public and private discrimination; signatory countries must ensure *de facto* women’s equality, not merely *de jure* equality; institutional norms must be changed on gender stereotypes. (Baldez, p. 117)

Do Non-Government Organizations (NGOs) have a role in the development of policies and practices?

YES. -NGOs provide the CEDAW Committee with “shadow reports.” These reports give factual local information about the status of women. -NGO’s may comment on the official government reporting from their home country. Their report may be either in person at a hearing or in writing to the CEDAW Committee. -NGO’s may suggest questions to be asked of their home country’s delegation to the CEDAW Committee. NGOs may also serve as consultants to the Rapporteur during the writing of the Concluding Observations.



Poster at UN headquarters (2019) depicts women’s empowerment as a cross cutting theme for the attainment of all Sustainable Development Goals and the attainment of women’s human rights. Photo by © J. Follows

TALKING POINTS

Proponents of CEDAW say....

CEDAW is a process, not an edict.

CEDAW is a process for raising awareness of the status of women and the discriminatory practices impacting women worldwide.

CEDAW calls on the ratifying country and local government bodies to regulate their own behaviors, in accordance with the fundamental guiding human rights norms spelled out in the text of the treaty and by the General Recommendations from the CEDAW Committee.

“The advancement of women promotes stability and economic growth for societies as a whole.” (Senate Foreign Relations Committee, 2002)

CEDAW may provide women with the most comprehensive protection from domestic violence. (Baldez, p. 31)

The CEDAW Committee “provides international accountability for women’s rights policy and reshapes the contours of the policy-making process by bringing the CEDAW Committee into the domestic policy arena.” (Baldez, p. 22)

CEDAW will enhance America’s position as a global leader for women’s human rights.

Ratification of CEDAW will “reaffirm the commitment of the United States before the eyes of the world to the principle of equality between men and women and to the promotion and protection of women's rights at home and abroad.” (Senate Foreign Relations Committee, 2002)

CEDAW norms will enhance America’s position as a global leader on women’s equality and protection against discrimination.

“U.S. ratification will give our diplomats a tool-a means to press other governments to fulfill their obligations under the Convention.” (Senate Foreign Relations Committee, 2002)

“(US) ratification will further empower women in foreign nations who seek to use CEDAW to press for women's rights in their respective countries.” (Senate Foreign Relations Committee, 2002)

CEDAW leaves the US Constitution and existing federal legislation intact, including:

US Constitution, 14th Amendment Equal Protection Clause: Under this standard, sex-based classifications are permissible only if they have an “exceedingly persuasive justification.”

Federal Statutes, such as 1963 Equal Pay Act, 1964 Title VII and Title IV of the Civil Rights Act, 1972 Title IX of the Education Amendments, Fair Housing Act, the Pregnancy Discrimination Act, 2000 Trafficking Victims Protection Act, Violence Against Women Acts of 1994, 2000, and 2005; Freedom of Access to Clinic Entrances Act, Lilly Ledbetter Fair Pay Act, Family and Medical Leave Act are not affected.

(Testimony of DOJ Principal Deputy Assistant Attorney General – Civil Rights Division)
<https://www.judiciary.senate.gov/imo/media/doc/10-11-18%20Bagenstos%20Testimony.pdf>

The CEDAW Committee has limited power over governments that ratify the treaty. The Committee cannot impose its agenda on any nation.

CEDAW will be complementary to the Equal Rights Amendment.

If and when the ERA becomes part of the US Constitution, it will provide a legal tool for women to pursue their rights against government actors in a court of law. A body of law will be built upon the trials and tribulations of women seeking remedies for the injustices done to them on account of their sex.

CEDAW promises more. Article 2(e) calls for signatory nations to ensure through domestic laws the elimination of discrimination against women by “any person, organization or enterprise.” Under the US Constitution, certain discriminatory government actions are proscribed, but the same actions by private parties or private organizations are not.

CEDAW creates a process that encourages face-to-face dialogue between the CEDAW Committee and member states at the United Nations. Country delegates participate in discussions about the universal norms pertaining to women’s human rights. “By ratifying CEDAW, countries take on a legal obligation to comply and make a public commitment to the standards articulated in the convention.” (Baldez, p. 131)

Ratifying CEDAW is the morally correct thing to do.

Human rights, including human rights for women, are fundamental universal rights. Contrary arguments derive from patriarchal, misogynistic and otherwise unjust political belief systems about the human condition.

(The text of CEDAW runs contrary to this argument. In fact, CEDAW has neutral language on the topic of a woman’s right to an abortion.) The text of CEDAW, Article 12 (1) reads: States Parties shall take all appropriate measures to eliminate discrimination against women in the field of

health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

CEDAW Committee General Recommendation GR 24 mentions abortion in this way: “When possible, legislation criminalizing abortion could be amended to remove punitive provisions imposed on women who undergo abortion.” (This language appears in a GR but nowhere in the general text of CEDAW) The GR does not advocate for abortion, or define abortion as a basic human right.)



“HOPE” by Latvian artist Edite Pauls-Vignere. Gifted to the UN in 1994 by Latvia. Photo by © J. Follows

TALKING POINTS

Opponents of CEDAW say....

CEDAW will intrude on American's personal choices, open the flood gates to litigation and violate the country's sovereignty.

CEDAW will lead to the decriminalization of prostitution, criticize religion, allow textbooks to highlight non-stereotypical gender roles, put babies into government-sponsored day care. (Baldez, p.5)

CEDAW Committee and its so-called "gender experts" will watch over the US. (Baldez, p.4)

CEDAW will stop Mother's Day celebrations because that day encourages traditional women's roles. CEDAW is a "hidden weapon" wielded by "radical feminists" (Baldez, p.5)

CEDAW's reach will be far and wide with tentacles that can impose policy on unwitting citizens

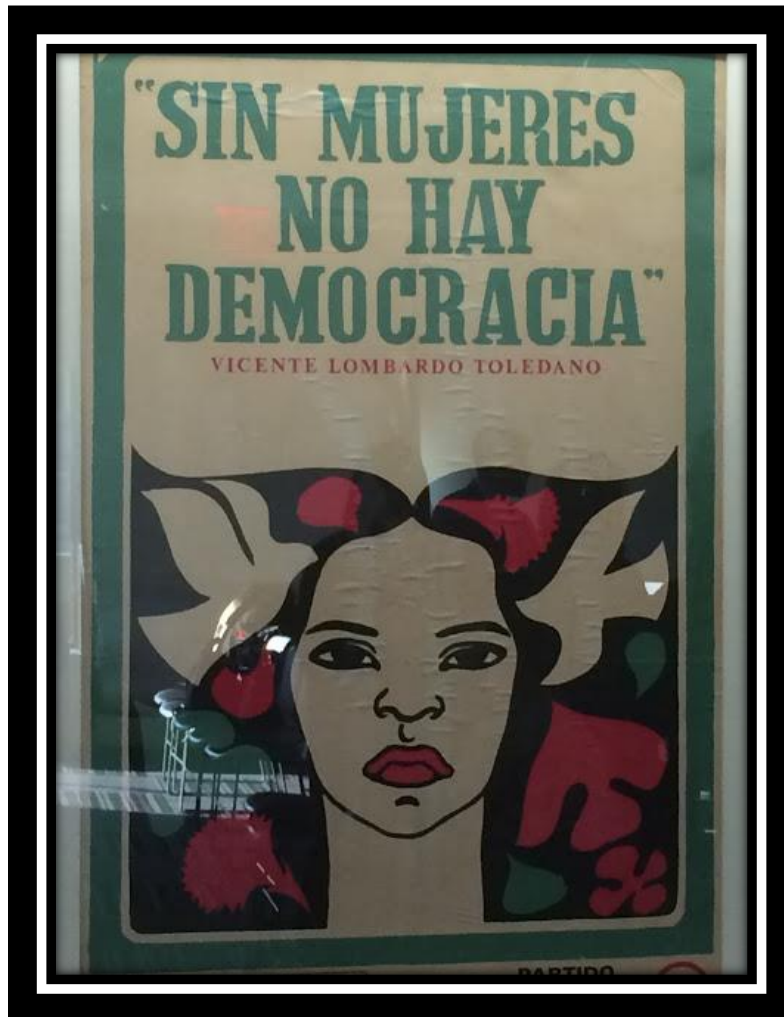
"The CEDAW Committee has for 30 years established a consistent record of promoting gender-related policies that do not comport with existing American legal and *cultural norms* and has encouraged the national governments of CEDAW members to engage in social engineering on a massive scale." (US Senate 2010 CEDAW hearing with Heritage Foundation speaker Steven Groves) (Baldez, p. 9)

"The United States has the strongest record on opportunities and rights for women in the world, and that ratification of the convention, rather than improving that record, would raise divisive social issues." Moreover, the 1994 minority felt that the convention's definition of "discrimination against women" is so broad that it would apply to private organizations and areas of personal conduct not covered by U.S. law." (Minority report to the Senate Foreign Relations Committee, 2002)

Secretary of State Edmund Muskie (Carter administration) acknowledged the minority's point and argued for adding a reservation to the US ratification of CEDAW. The "broad definition against women that applied throughout the (CEDAW) convention has the effect of applying the convention to private organizations and areas of personal conduct not covered by US law."

"The convention has also generated vigorous debate about the implications of U.S. compliance with regard to important social issues such as abortion on demand (including restrictions on Federal funding), comparable worth salary laws, women in the military, same-sex marriage, health care, single-sex education and potential government intrusion into areas traditionally

within the scope of family privacy. That debate perforce must continue, given that these issues have not, unfortunately, been laid to rest by Committee action on the convention.” (Minority Report to the Senate Foreign Relations Committee, 2002)



Poster exhibition NGOC63 in NYC. Photo by © J. Follows

TIMELINE: History of CEDAW at the United Nations and America's Outlier Position on CEDAW

Attention to women's human rights was limited in the United Nations and in the US public conscience in much of the 1960's. When the US saw its prominence in the UN dwindling in the 1970-s, the government pursued women's human rights as a means to reassert its diplomatic influence. Republican leaders were instrumental in drafting CEDAW, including provisions supportive of family planning, only to eventually succumb to political influences and forsake the treaty that they drafted. CEDAW has yet to be ratified by the US government.

1970-s President Nixon resigned from office in the wake of the Watergate scandal. The Republican Party subsequently appealed to women voters by highlighting women's issues. Bipartisan support for women's rights existed in Congress.

1974 US Secretary of State Henry Kissinger (Ford administration) told US diplomats "It is our desire at (the) 29th UN General Assembly to demonstrate our concern about human rights."

1975 World Conference on Women was held in Mexico City. It called for the drafting of a treaty on the elimination of discrimination against women (Article 197, Plan of Action)

1976 The International Working Group to draft CEDAW was created. The US State Department sent six women delegates. The delegates paid particular attention to the issue of population control: "the US recognizes that population growth is inextricably linked to all phases of socio-economic development, including unemployment/underemployment, environmental degradation, food production, problems of rapid urbanization and improvement in the status of women and their active participation as beneficiaries and as agents of change in community and national life." (Baldez, p. 83) The US delegates sought to insert the following words into the Preamble for CEDAW: "Individuals and couples have the right freely and responsibly to determine the number and spacing of their children and to have the information and the means to do so." (Baldez, p. 84) This proposed text was excluded from the Preamble but may be seen in CEDAW at paragraph 10h and 14b.

US delegates proposed that the International Court of Justice resolve international disputes over interpretation of CEDAW. *Nearly 20 years later, in a work-around to many objections to the ratification of CEDAW in 1994, the Clinton administration proposed a reservation to this paragraph.*

1979 UN General Assembly adopted CEDAW and established universal norms for the equality and rights and responsibilities of governments. CEDAW was adopted overwhelmingly by UN Member States. (130 in favor; none against; 11 abstentions) The vote hinged on the structure and power of the CEDAW Committee.

1980-s Many Third World countries joined the UN in the 1980-s and created a new majority voting bloc. The US and USSR were marginalized by this shift of power. The Third World countries emphasized social issues such as poverty, food insecurity, and population growth. Even though the emphasis shifted from security issues to social issues, the lack of women's participation in UN affairs seemingly allowed the UN to pay little attention to women's status as it related to social issues.

1980 President Carter signed CEDAW July 27, 1980-and transmitted CEDAW to the US Senate on November 12, 1980. The Senate did not take action.

1980-s Democrats and Republicans split ways on feminist issues, with Democrats supporting ERA and abortion.

The second World Conference on Women took place during July, 1980 in Copenhagen: 65 countries, including the United States, signed CEDAW. The signature for the US was written by Sarah Weddington. (authorized by President Carter) The Conference drafted a Platform for Action intended to fulfill the intent of CEDAW. Third World countries dominated the conference and politicized women's issues. The US voted against the Platform for Action, believing that women's issues had been politicized in the document. The US Congress thereafter cut funding for two key programs for women at the UN: the International Research and Training Institute for the Advancement of Women and the Development Fund for Women.

President Carter transmitted CEDAW to the US Senate (Foreign Relations Committee) on November 12, 1980, political problems including the Iran hostage crisis and Soviet invasion of Afghanistan. relegated CEDAW to the back burner.

1981 CEDAW entered into force as a United Nations human rights treaty on September 3, 1981.

1985 The Third World Conference on Women was held in Nairobi, Kenya. An NGO called International Women's Rights Action Watch (IWRAP) started submitting "shadow reports" to the CEDAW Committee. This group presented information about human rights violations occurring in real time and on the ground in signatory nations.

IWRAP distributed the text of CEDAW worldwide in three languages (English Spanish, French); published a quarterly newsletter *Women's Watch* that wrote about violations of women's human rights and gave examples of how NGO's could use CEDAW to change

government policies. Fast forward thirty years-NGO's in many countries produce and submit shadow reports to the CEDAW Committee, thus eliminating the need for IWRAW to do the same.

1989 During the President H.W. Bush administration, the US Senate asked to review four human rights treaties (CERD, CEDAW, CAT and ICCPR). The Senate focused on CAT and ICCPR.

1993 The World Conference on Human Rights was hosted by the UN in Vienna, Austria. Members agreed: "The human rights of women and of the girl-child are an inalienable, integral and indivisible part of universal human rights." (Baldez pages 122-123)

1994 The US Senate gave advice and consent to President William J. Clinton to ratify the UN Convention on the Elimination of Racial Discrimination (CERD). The Senate's authorization came nearly 30 years after the US had signed the human rights treaty in 1966. The text of CERD mirrors the text of CEDAW in many ways, and both treaties have similar reservations attached to their implementation in the US. Nonetheless, the US adopted CERD but not CEDAW.

1995 The Fourth World Conference on Women took place in Beijing, China. The Beijing Platform for Action (BPfA) gave the CEDAW Committee a new task- to monitor *implementation* of the goals of the BPfA. The BPfA identified 12 Areas of Concern. The CEDAW Committee linked the 12 areas of concern to the text (Articles) of CEDAW. The CEDAW Committee now saw itself as *implementing* human rights.

Attempts by the US House of Representatives to prevent First Lady Hillary R. Clinton from attending the Conference failed. The House argued that the First Lady's presence in Beijing would appear to condone China's human rights violations. One particular member, Rep. Laurie Funderburk (R-NC), went further and claimed that CEDAW was "a treaty in which fathers and husbands are described as the primary abusers of women and children." (Baldez p. 173)

2000 Sen. Barbara Boxer (D-CA) introduced a bill in the US Senate to ratify CEDAW. Sen. Jesse Helms introduced a Bill opposing ratification and said that CEDAW is "incompatible with the tradition and policy of the US to uphold motherhood and to regard motherhood with the highest degree of honor and respect." (Baldez, p. 175)

2002 Sen. Joseph Biden served as chair of the Senate Foreign Relations Committee. The Committee advised Secretary of State Colin Powell of its support for CEDAW. Approximately one year later, Secretary Powell wrote back and said that CEDAW is "generally desirable and should be approved." (Baldez, p. 176) *Part of the US Senate Foreign Relations Committee Majority Report may be found at the end of the Timeline**

- 2008 CEDAW was placed under the UN Office of the High Commissioner on Human Rights (formerly under the Division for the Advancement of Women.) New reporting guidelines asked countries to detail any action taken in response to the CEDAW Committee's prior concluding comments as well as to give information about any "remaining or emerging obstacles" to achieving women's equality. (Baldez, p. 127)
- 2010 President Barack Obama gave his support to CEDAW. (White House interview June 1)
- 2010 CEDAW Task Force was created by the Leadership Conference on Civil and Human Rights. <https://civilrights.org/> (League of Women Voters is a coalition member).
- 2010 Senate Judiciary Subcommittee on Human Rights and International Affairs held a hearing on CEDAW ratification. (This subcommittee did not have power to act on CEDAW. That singular power lies with the Committee on Foreign Relations.) The subcommittee hearing was chaired by Sen. Richard Durban (D-IL). Witness testimony in support of CEDAW was given by Melanne Verbeke, -Ambassador at Large for the Office of Global Women's Issues in the Department of State; Marcia Greenberger, -co-president of National Women's Law Center; Samuel Bagenstos, -Deputy Assistant Attorney General for the Civil Rights Division of the DOJ; Wazma Frogh, -leader of an Afghan's Women's group; and Geena Davis, -actress and founder of the Geena Davis Institute on Gender in Media. Witness testimony in opposition to CEDAW was given by Steven Groves, -research fellow with the Heritage Foundation. Groves argued that "some of this federal legislation remains controversial and will continue to be debated in Congress and litigated in US Courts...the judgement of gender experts sitting on the CEDAW Committee who may possess inadequate specific knowledge or understanding of US laws and practices." (Baldez, p. 9)
- 2010 UN Women (a UN body) was formed from the consolidation of the Division for the Advancement of Women, the International Research and Training Institute for the Advancement of Women, the Office of the Special Advisor on Gender Issues and Advancement of Women, and the UN Development Fund for Women.
- 2012 The US is still an outlier among all other democratic developed nations for having failed to adopt CEDAW. (Procedurally, the US adopts a human rights treaty with the support of the president and the vote of 67 U.S. Senators- a super majority. Four other UN human rights treaties have been adopted by the US, including: 1988 Convention on the Prevention and Punishment of the Crime of Genocide; 1992 International Covenant on Civil and Political Rights; 1994 International Convention on the Elimination of All Forms of Racial Discrimination; 1994 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It is noteworthy that the US has attached reservations to these treaties, thereby minimizing the impact the treaty may have on domestic policy.)

* US Senate Foreign Relations Committee Majority Report, 2002
(relevant excerpts below)

The advice and consent of the Senate is subject to the following reservations, which shall be included in the instrument of ratification:

(1) The Constitution and laws of the United States establish extensive protections against discrimination, reaching all forms of governmental activity as well as significant areas of non-governmental activity. However, individual privacy and freedom from governmental interference in private conduct are also recognized as among the fundamental values of our free and democratic society. The United States understands that by its terms the Convention requires broad regulation of private conduct, in particular under Articles 2, 3 and 5. The United States does not accept any obligation under the Convention to enact legislation or to take any other action with respect to private conduct except as mandated by the Constitution and laws of the United States.

(2) Under current U.S. law and practice, women are permitted to volunteer for military service without restriction, and women in fact serve in all U.S. armed services, including in combat positions. However, the United States does not accept an obligation under the Convention to assign women to all military units and positions which may require engagement in direct combat.

(3) U.S. law provides strong protections against gender discrimination in the area of remuneration, including the right to equal pay for equal work in jobs that are substantially similar. However, the United States does not accept any obligation under this Convention to enact legislation establishing the doctrine of comparable worth as that term is understood in U.S. practice.

(4) Current U.S. law contains substantial provisions for maternity leave in many employment situations but does not require paid maternity leave. Therefore, the United States does not accept an obligation under Article 11(2)(b) to introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances.

SECTION 3. UNDERSTANDINGS.

The advice and consent of the Senate is subject to the following understandings, which shall be included in the instrument of ratification: (1) The United States understands that this Convention shall be implemented by the Federal Government to the extent that it exercises jurisdiction over the matters covered therein, and otherwise by the State and local governments. To the extent that State and local governments exercise jurisdiction over such matters, the Federal Government shall, as necessary, take appropriate measures to ensure the fulfillment of this Convention.

(2) The Constitution and laws of the United States contain extensive protections of individual freedom of speech, expression, and association. Accordingly, the United States does not accept any obligation under this Convention, in particular under Articles 5, 7, 8 and 13, to restrict those rights, through the adoption of legislation or any other measures, to the extent that they are protected by the Constitution and laws of the United States.

(3) The United States understands that Article 12 permits States Parties to determine which health care services are appropriate in connection with family planning, pregnancy, confinement and the post-natal period, as well as when the provision of free services is necessary, and does not mandate the provision of particular services on a cost-free basis.

(4) Nothing in this Convention shall be construed to reflect or create any right to abortion and in no case should abortion be promoted as a method of family planning.

(5) The United States understands that the Committee on the Elimination of Discrimination Against Women was established under Article 17 "for the purpose of considering the progress made in the implementation" of the Convention. The United States understands that the Committee on the Elimination of Discrimination Against Women, as set forth in Article 21, reports annually to the General Assembly on its activities, and "may make suggestions and general recommendations based on the examination of reports and information received from the States Parties." Accordingly, the United States understands that the Committee on the Elimination of Discrimination Against Women has no authority to compel actions by States Parties.

SECTION 4. DECLARATIONS.

The advice and consent of the Senate is subject to the following declarations:

(1) The United States declares that, for purposes of its domestic law, the provisions of the Convention are non-self-executing.

(2) With reference to Article 29(2), the United States declares that it does not consider itself bound by the provisions of Article 29(1). The specific consent of the United States to the jurisdiction of the International Court of Justice concerning disputes over the interpretation or application of this Convention is required on a case-by-case basis.

TEXT of CEDAW-Link and Commentary

Convention on the Elimination of All Forms of Discrimination Against Women.

<https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx> (accessed 1/17/21)

<p>PREAMBLE</p>	<p>The Preamble is not an operative part of the CEDAW Convention; The Preamble does not create legally binding obligations; In part, the Preamble states that women’s equality will rise in concert with nations’ economic development. Similar language linking women’s equality with economic development does not appear in the substantive text of CEDAW).</p>
<p>PART I includes 6 Articles that guide the interpretation of the substantive Articles that follow in PART II, III and IV</p>	<p>(Article 1) Defines discrimination exceptionally broadly. Member States obligate themselves to “take positive action to eliminate <i>de facto</i> as well as <i>de jure</i> discrimination against women, intended and unintended, in every arena of society.” (Baldez, p. 103) Article 1 says that discrimination against women applies to both governments and private organizations.</p> <p>(Article 2) Member States are responsible for establishing equality by employing “all appropriate measures.”</p> <p>2a-Countries are supposed to embody the principle of equality in their domestic constitutions. (The US Constitution does not explicitly state that men and women are equal under the law; the 14th Amendment guarantees “sex equality.” <i>(Pending ERA at the time of Guidebook distribution.)</i>)</p> <p>2b-States must adopt legislation that prohibits discrimination against women (US conforms).</p> <p>2c-States must have effective legal protections for women’s equality (US conforms).</p> <p>2d-States must treat women in public office equally (US conforms).</p> <p>2e-States will “take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise” <i>(problematic for the US because this provision in CEDAW holds government responsible for protecting women from discrimination that arises from acts by public actors as well as private individuals and organizations).</i></p> <p>2f-States must eliminate “regulations, customs and practices” that discriminate against women.</p> <p>2g-States must repeal unequal penal codes.</p> <p>(Article 3) Promote full development and advancement of women.</p> <p>(Article 4.1) Describes temporary special measures. (Affirmative action measures) “shall be adopted by States to accelerate <i>de facto</i> equality between men and women. (This provision is generally applied in support of gender quotas/political representation.)</p>

	<p>(Article 4.2) Requires protective maternity legislation.</p> <p>(Article 5) Concerns gender stereotypes. Member States shall “take all appropriate measures...to modify the social and cultural patterns of conduct of men and women...” This provision acknowledges the CEDAW drafters’ view that there is a change in the traditional roles of men and women and that an education campaign on gender stereotypes was required to foster women’s equality.</p> <p>(Article 6) Member States need to look at the root causes of women’s vulnerability to trafficking and prostitution.</p>
<p>PART II Three aspects to political rights under CEDAW</p>	<p>(Article 7) Governments are required to ensure that men and women have equal rights to vote, serve in public office and participate in NGOs.</p> <p>(Article 8) Governments shall take “all appropriate action” to provide equal opportunities for women to represent their countries in the diplomatic corps and international organizations.</p> <p>(Article 9) Guarantees women’s citizenship is independent of their husband’s, and men and women have equal rights in determining their children’s nationality.</p>
<p>PART III Five articles on social and economic rights</p>	<p>(Article 10) Covers equality of education.</p> <p>(Article 11) Covers equality in employment. 11 (1) (d) Women have a right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work. (American Bar Association says the US laws are already in accord with this provision.) 11 (2) (b) Calls for paid maternity leave. The US does not provide this as a matter of public policy. Private employers may provide maternity leave. FMLA allows all workers to take unpaid leave for a range of reasons.</p> <p>(Article 12) Member States shall provide equal access to health care services, including those related to family planning. (This article is potentially problematic for the US. Some argue that abortion is a part of family planning.)</p> <p>(Article 13) Guarantees rights to family benefits, the right to bank loans, mortgages and other forms of credit, and the right to participate in recreational activities, sports and all aspects of cultural life.</p> <p>(Article 14) Deals with the specific needs of women in rural areas.</p>
<p>PART IV</p>	<p>(Article 15) Specifies the rights of women in the legal arena.</p>

	(Article 16) Covers marriage and the family.
PART V Countries commit to regular reporting on their compliance with CEDAW	(Article 17) Identifies the membership of the CEDAW Committee. (Article 18) Countries must submit an initial report within one year of ratifying CEDAW and periodic reports every four years after that and additional reports when requested. (Articles 19-22) Specify other rules for the Committee.
Part IV	(Article 23) Defines the relationship between CEDAW and existing domestic law. This Article supports the efforts of Member States to enact more progressive laws than the provisions found in the text of CEDAW. (Article 24) Requires that “parties undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized” in CEDAW. (Article 25) Explains how CEDAW comes into force. (Articles 26 –27) Explain the means to amend, dispute and distribute CEDAW. (Article 28) Reservations are ways to exempt a country from a particular part of CEDAW; Reservations may be accompanied by Understandings and Declarations. <i>(The majority of reservations are to Articles 2,5,7, and 16)</i> “The Committee’s treatment of reservations is particularly relevant to the debate about CEDAW in the US. Placing a reservation on a particular article, a strategy urged by many supporters of ratification of CEDAW, does not preclude the Committee from asking about it during the reporting sessions.” (Baldez, p. 108) (Article 29) Provides that ICJ (International Court of Justice) can adjudicate disputes among State Parties. (Article 30) CEDAW will be made available in many languages.
OPTIONAL PROTOCOL (OP)	Optional Protocol is ratified by over 100 State Parties. The OP may be considered only by States that ratified CEDAW. It allows any individual or organization within the country to present a claim of rights violation before the CEDAW Committee (CEDAW itself only applies to governments.)

RESOLUTION (HR277) ADOPTED by VIRGINIA HOUSE OF DELEGATES

Commemorating the 40th anniversary of the Convention on the Elimination of All Forms of Discrimination Against Women.

February 3, 2021

Patrons-- Ayala, Adams, D.M., Carr, Delaney, Gooditis, Hayes, Hope, Jones, Kory, McQuinn, Mugler, Reid, Scott, Simonds and Watts

WHEREAS, the Convention on the Elimination of All Forms of Discrimination Against Women, an international human rights treaty promoting gender equity, was adopted by the United Nations General Assembly in 1979 and formally instituted in 1981; and WHEREAS, the Convention on the Elimination of All Forms of Discrimination Against Women (Convention) requires eliminating discrimination against women in all its forms, including in the areas of economic development, health, safety, and education; and

WHEREAS, a number of American cities and states have adopted legislation reflecting the principles underlying the Convention to better inform policy and to empower communities to make the policy changes necessary to lift more women out of poverty and violence; and

WHEREAS, it is the policy of the Commonwealth to eliminate and prevent discrimination in employment, family, leave, public accommodations, credit and financing practices and housing accommodations because of various statuses, including but not limited to race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, sexual orientation, gender identity, genetics, political affiliation, or status as a veteran; and

WHEREAS, the United States Census Bureau indicates a persistent wage gap between men and women and a perpetual difference not only between the wages women are paid compared with those of men, but also the wages that women of different races are paid compared with those of their white counterparts; and

WHEREAS, the national median annual pay for a woman who holds a full-time, year-round job is \$47,299, while the median annual pay for a man who holds a full-time, year-round job is \$57,456; this means that, overall, women in the United States are paid 82 cents for every dollar paid to men, amounting to an annual gender wage gap of \$10,157; and

WHEREAS, the wage gap is widest for many women of color; among women who hold full-time, year-round jobs in the United States, Black women are typically paid 63 cents, Native American women are paid 60 cents, and Latinas are paid just 55 cents for every dollar paid to white, non-Hispanic men; and

WHEREAS, white, non-Hispanic women are paid 79 cents and Asian American women 87 cents for every dollar paid to white, non-Hispanic men, and Asian American and Pacific Islander women of some ethnic and national backgrounds fare much worse; and

WHEREAS, women hold 58 percent of all student loan debt and have an average debt that is 9.6 percent higher than their male peers one year after graduation, and, on average, women take an additional two years to pay off student loans; and

WHEREAS, Black women finish their undergraduate education with more debt than all other graduates; and

WHEREAS, women are statistically more educated than men and seek out more graduate-level degrees to be competitive with their male counterparts, yet wages do not increase for women at the same rate; and

WHEREAS, the gender wage gap is widest in the highest-paying fields, with men earning 17 percent to 43 percent more than women, depending on the occupation; this inequality directly contributes to women having less disposable income to pay back loans in the same time frame as male counterparts; and

WHEREAS, the gender wage gap is a measure of just how far the nation and the Commonwealth still must go to ensure that women can participate fully and equally in the economy; and

WHEREAS, these numbers are more than facts and figures; they represent the tangible consequences of sexism and white supremacy in the United States and how the country systematically devalues women, particularly women of color, and their labor; and

WHEREAS, this persistent, pervasive wage gap is driven in part by gender and racial discrimination, workplace harassment, job segregation, and a lack of workplace policies that support family caregiving, which is still most often performed by women; and

WHEREAS, on average, women employed full time in the United States lose a combined total of more than \$956 billion every year due to the wage gap; and

WHEREAS, these lost wages mean women and their families have less money to support themselves, save and invest for the future, and spend on goods and services; women, their families, businesses and the economy all suffer as a result; and

WHEREAS, if the gender wage gap were eliminated, on average, a working woman in the United States could have enough money for, approximately, more than 13 additional months of child care; one additional year of tuition and fees for a four-year public university, or the full cost of tuition and fees for a two-year college; nearly seven additional months of premiums for employer-based health insurance; nearly 65 weeks of food (more than one year's worth); more than six months of mortgage and utilities payments; more than nine additional months of rent; up to more than eight additional years of birth control; or enough money to pay off student loan debt in just under three years; and

WHEREAS, in the United States, mothers are breadwinners in nearly half of families with children under 18, and 34 million households in the United States are headed by women, more than six million of whom support children under 18; and

WHEREAS, 8.2 million United States households, including more than two million with children under 18, have incomes that fall below the poverty level; and

WHEREAS, the wage gap persists regardless of industry, occupation, and education level, and there are numerous causes that contribute to the wage gap, including discrimination and bias; and

WHEREAS, the Commonwealth ranks 25th among states in the wage gap between men and women by state, per dollar; and

WHEREAS, the health of women and girls in the Commonwealth needs to be more closely examined in the areas of maternal and infant mortality and birth rates, health insurance coverage, and the prevalence of health conditions such as heart disease; and WHEREAS, the Commonwealth's Healthy People 2000 goals included reduction of maternal mortality rates to five per 100,000 live births, and goals for 2010 included a further reduction to 3.3 maternal deaths per 100,000 live births; neither goal was reached; and

WHEREAS, the most recent Healthy People Goal (2020) is 11.4 deaths per 100,000 live births; and

WHEREAS, in Virginia, the maternal mortality rate for Black women is more than twice that of white women; and

WHEREAS, on June 5, 2019, Governor Ralph Northam announced a goal to eliminate racial disparity in the Virginia maternal mortality rate by 2025 and signed legislation that codified the Maternal Mortality Review Team in the Commonwealth; and

WHEREAS, violence against women, like pay inequity, has much to do with women remaining at the nation's worst poverty levels, cementing inequities and holding women back; and

WHEREAS, the safety of women and girls in the Commonwealth requires attention and review when it comes to the number of women and girls falling victim to sexual exploitation and human trafficking, the number of reported instances of rape and sexual assault, and the amount of money spent assisting domestic and sexual violence victims; and

WHEREAS, between three and five women are killed by an intimate partner every day, and 20 people are physically abused by an intimate partner every minute, totaling 10 million people annually, with women disproportionately affected; and

WHEREAS, 735,000 people are sexually assaulted annually, with women disproportionately affected; and

WHEREAS, 250,000 contacts have been made, disproportionately by women, to human trafficking hotlines since 2007; and

WHEREAS, the prevalence of violence against women rivals that of other diseases, epidemics, and pandemics in the United States and globally, yet not all physicians inquire this of female patients when capturing case history; and

WHEREAS, domestic and sexual violence impacts children, families, communities, and the economy, and data and tracking of domestic and sexual violence cases must improve; and

WHEREAS, more ameliorative action needs to be taken to achieve real, not piecemeal, nationwide change, because if women are not safe, cycles of violence will be perpetuated and women will be unable to free themselves from poverty and become productive members of society; and

WHEREAS, violence against women costs the United States trillions in direct support and lost jobs and productivity; and

WHEREAS, violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men, preventing the full advancement of women; and

WHEREAS, violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men; and

WHEREAS, some groups of women, such as women belonging to minority groups, indigenous women, refugee women, migrant women, women living in rural or remote communities, destitute women, women in institutions or in detention, female children, women with disabilities, elderly women, and women in situations of armed conflict, are especially vulnerable to violence; and

WHEREAS, violence against women in homes and in society is pervasive and cuts across lines of income, class, and culture and must be matched by urgent and effective steps to eliminate its occurrence; and

WHEREAS, the COVID-19 pandemic has shed light on and exacerbated the many inequities that exist within the Commonwealth and the United States; it has been women, gender minorities, people of color, and other marginalized groups who have borne the brunt of the pandemic's worst impacts; and

WHEREAS, the education, health care, and social care workforce is composed predominantly of women, and the gendered impacts of the pandemic will require thorough examination and mitigation considering already existing inequities; and

WHEREAS, in December 2020, thousands of American job losses were those of women, and largely women in the service industry and women of color; and

WHEREAS, the ongoing dissolution of the child care industry has left many working mothers without options; and

WHEREAS, the pandemic is sidelining hundreds of thousands of women and wiping out the gains they made in the workplace over the past several years, with these devastating circumstances creating a "shecession"; and

WHEREAS, there is a real need and demand to address structural and systemic gender inequality in order to sustainably recover, build back better, challenge the status quo, and make institutional change work for those who have been left behind; and

WHEREAS, there is a dearth of women being honored and memorialized for their contributions to the Commonwealth and society writ large as evidenced by the less than eight percent of memorials named for women and no military bases named for women; and

WHEREAS, in 2020, the Commonwealth elected to remove its sculpture of Confederate General Robert E. Lee from the United States Capitol and replace it with a sculpture of Barbara Rose Johns Powell, a pioneering leader in the American Civil Rights Movement, who at the age of 16 led a student strike for equal education at R.R. Moton High School in Farmville, and which became the only student-initiated case consolidated in the 1954 U.S. Supreme Court case, *Brown v. Board of Education*; and

WHEREAS, there are now a total of 10 statues out of 100 dedicated to women in the National Statuary Hall Collection, and women artists have sculpted only 16 of the 100 statues in the National Statuary Hall Collection; and

WHEREAS, core education curricula in the United States fail to recognize the contributions women have made in America, as until recently, all stories have been told by men and most have been in favor of and about men, and thus the history books in circulation blatantly leave out numerous women and their contributions to society; and

WHEREAS, analysis by the National Women's History Museum on the standard K-12 curriculum in social studies for all states and territories estimates that only 178 women are mentioned in today's schoolbooks, compared to more than approximately 559 men; of the women named, more than 60 percent were white and 25 percent Black, with even

less representation for Hispanic, Native American, and Asian American or Pacific Islander women; and

WHEREAS, studies show that in standard K-12 curricula, the occupations of women mentioned were related to domestic roles 53 percent of the time, while women's rights and suffrage activists fell below half of that number; and

WHEREAS, edits to current history curricula are needed to include women and a full and fair recitation of their participation in the Commonwealth's and the nation's history and should include a review of content, instructional practices, and resources currently used to teach American history in the Commonwealth to help ensure that every graduate enters adult life with a comprehensive understanding of the women's voices and labors that contributed to the heritage of the nation and the Commonwealth; and

WHEREAS, there is a need to promote diversity and inclusion in legislative proceedings, standing rules, and in all recorded laws, and the Commonwealth has not yet permanently stricken gender-specific language and replaced it with gender-neutral language in the General Assembly; and

WHEREAS, although women and girls have made gains in the struggle for equality in many fields in the Commonwealth and in the United States, much more needs to be accomplished to fully eradicate discrimination based on gender and to achieve full equality; and

WHEREAS, state and local governments have an appropriate and legitimate role in affirming the importance of eliminating all forms of discrimination against women and girls; and

WHEREAS, women and girls who live in the Commonwealth enjoy all the rights, privileges, and remedies that are bestowed on all people in the United States, no matter their race, national origin, gender, or religious belief, and discrimination against women and girls in the Commonwealth will not be tolerated; and

WHEREAS, a future statewide equity assessment could further address these issues through a gender analysis of all state departments, boards, authorities, and commissions, and future designation of a task force via separate resolution to support these actions; now, therefore, be it

RESOLVED by the House of Delegates, That the 40th anniversary of the passage of the Convention on the Elimination of All Forms of Discrimination Against Women hereby be commemorated; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation as an expression of the House of Delegates' admiration for the historical significance of the Convention and the ideals it represents.

Reference List

Baldez, Lisa. *Defying Convention*. 2014. New York: Cambridge University Press;(The Guidebook's arguments for and against ratification of CEDAW are more fully described in this text.)

Convention on the Elimination of All Forms of Discrimination Against Women.

<https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx> (accessed 1/17/21)

US Senate Foreign Relations Committee Executive Report on CEDAW, September 6, 2002

<https://www.congress.gov/congressional-report/107th-congress/executive-report/9/1>

(accessed 1/17/21) The Committee on Foreign Relations to which was referred

the Convention on the Elimination of All Forms of Discrimination Against Women, adopted by the United Nations General Assembly on December 18, 1979, and signed on behalf of the United States of America on July 17, 1980, having considered the same, reports favorably thereon and recommends that the Senate give its advice and consent to ratification thereof, subject to four reservations, five understandings, and two declarations as set forth in this report and the accompanying resolution of advice and consent to ratification.

Briefing Book on Human Rights, First Edition: Synergy Between Policies of the League of Women Voters and United Nations Human Rights Conventions. 2019-2020. <https://bit.ly/HR-SIG>



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