THE COVENANT FOR THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN (CEDAW)

IMPLEMENTING CEDAW IN SOUTH ASIA

Successes and Challenges

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INTRODUCTION

On December 18, 1979, the UN General Assembly adopted a comprehensive treaty on women’s rights entitled the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). This convention represents a culmination of efforts to develop an international legal framework of non-discrimination on the basis of sex, and affirms nondiscrimination and equality as significant human rights for women. This paper will discuss the implementation of CEDAW in South Asia, a region comprising India, Pakistan, Bangladesh, Nepal, Bhutan, Sri Lanka and the Maldives, drawing attention to CEDAW’s capacity to address regional trends and cross-cutting concerns. However, given the status of Sri Lanka and the Maldives as ‘outlier’ State Parties (Sri Lanka, due to a protracted period of civil strife and economic hardship, and the Maldives, due to its low population density and little regional significance), this paper will focus primarily on the remaining countries and their attempts at women’s empowerment in tandem with CEDAW.

South Asia exhibits similar trends in terms of patriarchal societal structures, high poverty levels (it is home to half of the world’s poor), and the pervasive cultural construction of a public-private dichotomy centering around notions of ‘ideal womanhood’. Governments are often apprehensive about interfering in personal family laws usually deemed as ‘sensitive’ issues, a factor that directly affects the implementation of CEDAW in South Asia. For example, South Asia comprises a large Muslim population living under the civil and institutional jurisdiction of the Sharia Islamic law (One third of all Muslims live in South Asia, and India, Pakistan, and Bangladesh rank as the world’s second, third and fourth countries respectively in terms of Muslim populations, respectively, Vaughn, 2005). Legal mandates that call for women’s
empowerment are often in direct confrontation with the Sharia law, making it impossible to take consistent and effective action for gender rights.

MARRIAGE LAWS AND PATRIARCHAL NORMS

The biggest obstacle to the implementation of CEDAW and the improvement of women’s familial relations in South Asia is the plurality of the system of law. Countries have codified legal provisions protecting the right of women to marry, divorce, and have a voice in family matters. Yet in practice, “women have no power to negotiate their sexual rights, exercise their free choice to have a child or even the right to space their children” (NAWO, 2006, pg. 127). Traditional patriarchal structures have exerted more control over women’s lives than government policies making it challenging to eliminate traditional and religious practices such as polygamy, dowry, and child marriage. Under Personal Laws, issues pertaining to women and women’s rights are constructed by Islamic, Hindu, and Buddhist traditions, which usually regard women as being subordinate to men.

In practice, many South Asian women are forced into marriages despite the fact that men and women are granted equal rights. Child marriages are common in South Asia. According to The Child Marriages Restraint Act (India -1978), the accepted and legal age for girls to marry is 18 (CEDAW, Article 16, India, 2005). However, in practice, young girls are often forced into marriage at a much earlier age and the offenders of these laws are rarely punished. The Indian government, through its National Policy on Empowerment of Women, has set a goal to make it compulsory to register all marriages by 2010 (CEDAW, Article 16, India, 2005), to combat the problem of child marriage. In Nepal, traditional and cultural practices still rule over common
law. Deuki is a practice where young girls are dedicated or ‘married’ to a god or goddess. Sometimes, the second daughter will be forced to spend her life in a monastery, and other times, young girls are forced into ethnic and cultural practices of prostitution.

CEDAW is also concerned with women’s rights issues relating to divorce, property rights, and custody and guardianship within the family. While the 1961 Muslim Family Laws Ordinance in Pakistan gives women certain protections in marriage such as requiring “the registration of all marriages, ... the abolition of divorce by repudiation (talaq), and other safeguards for women in the event of a divorce” (Weiss, 2003), it still does not protect the same rights as those protected by UN Convention. All across the region, cultural and traditional practices and laws concerning the family, such as the Personal Laws, prevent women from exercising their legal rights to divorce (Ain O Salish Kendra Bangladesh Mahila Parishad, 2004). In India, “The Family Courts Act imposes an obligation on the Courts to attempt for reconciliation and preservation of marriage before granting the decree for divorce” (CEDAW, Article 16, India, 2005, pg. 93), which ultimately gives men final authority in the decision. In the case of property rights, women possess the same rights to own land and resources as men do, but in practice women are rarely allowed to control and manage property, often being forced to pass such rights to their husbands. In Nepal, women are forced to return parental property upon marriage. (CEDAW, Article 16, Nepal, 2003). In terms of custody, men as the patriarchs, are considered the guardians of their children, and responsible for passing down their ‘nationality’ in Bangladesh and Nepal. Women only have custodial rights until their children reach puberty (Ain O Salish Kendra Bangladesh Mahila Parishad, 2004). If a mother becomes a widow, the father of her husband becomes the legal guardian of her children, and she loses her right to their property.
Legal provisions to combat gendered discrimination within the family are ineffective because of social and traditional values and influences. All across the region, poverty among both men and women, as well as a lack of education and awareness of human rights, are responsible for the continued occurrence of such practices as child marriage, and other aspects of discrimination against women. All countries in the region hope that addressing the problems of poverty and education will improve the status of women as equals. In Nepal, NGOs as well as the National Human Rights Commission are working to promote and protect human rights as well as training civil servants and police personnel on women’s rights issues (CEDAW, Article 16, Nepal, 2003). However, without local societies taking responsibility for gender sensitivity and the elimination of gender-discriminatory laws such as the Personal Laws, women across South Asia will continue to live in a subordinate role to men in society.

VIOLENCE AGAINST WOMEN

Violence against women is the singularly most terrible manifestation of discrimination against women, which CEDAW attempts to end. Although the actual 1981 CEDAW convention does not specifically address violence against women, in 1992 the Committee to Eliminate Discrimination Against Women added General Recommendation number 19 to address this issue. South Asia’s ability to implement anti-violence laws, specifically for women, in conjunction with CEDAW has been largely successful, although a majority of these legislations have been legislated in the last few years. Unfortunately, amendments to laws do not always correspond to better conditions for women. Despite changes in the legal framework, 20% of women in South Asian countries have been abused by their husbands or close male relatives (Mollahi, 2005).
Violence against women in South Asia is manifested in many ways such as bride burning, rape, sexual abuse, dowry deaths, acid throwing, honor killings, sex-selective abortion and female infanticide. These crimes are part of the life-cycle of violence for women; as a fetus, a girl could be murdered via sex-selective abortion. As an infant, she could be the victim of female infanticide. As a girl, she is in danger of abuse or rape. As a wife, she is subject to domestic violence, and in extreme cases, dowry deaths. If she is unlucky enough to become a widow, her condition in South Asian society is precarious. Young widows especially have a high chance of being victims of sexual abuse or homicide (Coomaraswamy, 2005). Trafficking and forced prostitution, discussed elsewhere in this paper, exploit women systematically and violate women’s sexual rights.

Countries in South Asia have competent legislatures to combat violence against women. Bangladesh, for example, has specific laws to address acid throwing and rapes. Unfortunately, the punishment for selling and importing acid is death - leading to fewer actual guilty verdicts and acquittals. Acquittals actually result in a false complaint charge against the woman, for which there is a seven-year prison sentence. (CEDAW Committee, 2004, Bangladesh). In many countries, family members are rarely punished if they are the perpetrators of violence, especially in the case of honor killings. Moreover, Bangladesh, Pakistan, Nepal and Bhutan lack laws that specifically address domestic violence. India has only had such a law since 2005 (IWRAW, India NGO Shadow Report).

Marital laws are often not directly addressed due to the traditional views of state interference in the private sphere. For example, India has a reservation to Article 16 of CEDAW, which deals with eliminating discrimination against women within marriage and other domestic
arrangements. India declares this reservation on the basis of its non-interference policy toward personal affairs. However, India’s hesitation at reforming its Personal Laws has been a major obstacle its implementation of CEDAW (CEDAW, 2000).

Even with national laws implemented to follow CEDAW, there has been little decrease in the rates of violence against women (UNIFEM, 2005, p. 35). This has been attributed to the fact that pro-women’s rights legislation and empowerment has led to a backlash against women, or simply because these laws have enhanced women’s abilities to report violence. However, statistics often demonstrate that women are reluctant to even lodge complaints about violence because of fear of reprisal (UNIFEM, 2005, p. 35).

The Hindu caste system in India is still a major problem for women of the Dalit caste, many of whom face double discrimination in terms of caste and gender. Even though untouchability is outlawed in India and Nepal, the ideology and practice continues, meaning, “Dalit women are also extremely vulnerable to sexual exploitation.” (Mollahi, 2005, p.10).

Rape is a particularly heinous crime in South Asia since it almost universally means the woman is ostracized, and shunned as being impure and ruined. Until recently, Hudood laws in Pakistan made it almost impossible for a woman to prove she was raped. She had to have four male Muslim witnesses to the rape. If this could not be proved, she was at risk herself to be prosecuted for illicit consensual sex (Weiss, 2007). The Protection of Women Act 2006 has amended these laws, and now the laws for women in Pakistan are in alignment to Pakistan’s “zero tolerance” against violence against women. These amendments were very much needed, since 70-90% of Pakistani women are victims of violence. However, Pakistan justifies these high
statistics by citing the recent Protection of Women Act, 2006 which increased the ability of women to report crimes (CWD AW Committee, 2004, Pakistan).

This discussion raises the question of the increasing violence against women in South Asia. This region is characterized by a patriarchal society in which gendered hierarchies give women little value or power. They are seen in terms of belonging to someone else - their father or their husband, and rarely do they have control over their own bodies. South Asia has seen great strides in terms of legislative acts to deal with violence against women. Unfortunately, these reforms have not translated into a decrease in violence against women, which proves to be the biggest obstacle in making the Convention’s policies translate into a better status for women. One way the region could improve this trend is to completely implement all facets of the CEDAW convention; domestic violence must be specifically addressed by national law, the reservations (especially in India which relates to Article 5) must be removed, and more transparent surveys must be undertaken more often to understand the true statistics of violence against women in South Asia.

**Sex Ratio**

Areas in South Asia have abnormally high sex ratios at birth - a direct indicator of gender discrimination. The unusually high secondary sex ratio can be attributed to sex-selective abortions and female infanticide; the high tertiary sex-ratio can be attributed to parental neglect of girl children. These practices are an indicator of wider cultural stigmas surrounding women and the girl-child, resulting in preference for male offspring. CEDAW does not contain explicit articles addressing the issue of high sex-ratios, but this does not discredit its importance as a
women’s rights issue. Rather, the implementation of all CEDAW articles will improve women’s status, improve her societal value and worth, and eventually curb the endemic devaluation of daughters. Most importantly, the implementation of Article 16 (h), which calls for equal spousal rights to ownership of property, would immediately equalize women’s value in society.

Regionally, India and Pakistan have the highest sex ratios in South Asia. In India, the ratio of girl births to boy births is 927/1000, but can be as extreme as 800/1000 in the Northern States (Sex Ratio map of India, 2001). In Pakistan’s most recent census (1998) the ratio of daughters to sons was 925/1000 (Gechter, n.d.). Research suggests that these “missing women”, a phrase coined by economist Amartya Sen, have disappeared by use of sex-selective abortion, female infanticide, and neglect.

A son preference is due to two cultural factors: 1) dowry related costs and 2) pressure from the government and international agencies and to have smaller families. Within the traditional dowry system of South Asia, a daughter is an economic burden for her family. While in the household, a daughter will not bring economic returns through her labor, which is often restricted by cultural norms and discriminatory hiring. Neither will she bring economic gains through her marriage, unlike sons. Under traditional family codes, she has no right to property inheritance. In this context, daughters are an expense. When families are pressured to have fewer children in population control initiatives, even higher priority is given to birthing a son over a daughter. Access to property will improve women’s economic status, and thus the survival rates of the girl child. Unfortunately, there has been little implementation of Article 16 (h) in South Asia because of its deep ties to traditional cultures and family organization methods.
Despite its illegal status, sex determination tests continue to be a major facilitator of sex-selective abortions. NGOs have pointed out this remaining hurdle in the realization of women’s rights (IWRAW, 2006, India). In India’s latest CEDAW session, the committee expressed its concerns about the deteriorating ratio of females to males. It called upon the state of India to monitor laws prohibiting sex selection, while including safeguards to protect women pressured into seeking sex-selective abortions (CEDAW 2007, India). For families unable to access sex-determination tests or abortions, female infanticide is a prevalent solution to the “daughter problem.” Additionally, girl children die in higher numbers than boy children in India (IWRAW, 2006, India). Biologically, gender related differences favor the survival of the girl child over her brothers due to her higher resistance to disease and less proclivity to accident-related deaths. But in South Asia, especially Pakistan, India, and Bangladesh, the girl child dies of neglect (Gechter, n.d.).

Many committee members have criticized India and Pakistan for their inaction in implementing legal recourse for those found guilty of sex-selective abortions or female infanticide. Pakistan has indeed defended its stance, stating that “killing a girl child in Pakistan is unimaginable” (CEDAW, 2007, Pakistan) - an example of the discrepancy between paper declarations and cultural realities. But the high sex-ratio in South Asia is a response to overall devaluation of women in regard to their economic contribution to society. When women are valued in the economy, family, and wider society, the risk and burden associated with them will dissolve. CEDAW pushes for improved rights coming from different angles; upon implementation, the patriarchal bias against women will lift.
Human Trafficking

South Asia holds the highest number of unplanned pregnancies, maternal deaths, unsafe abortions, child marriages, sexual trafficking occurrences, and HIV infections (The Center for Reproductive Rights, 2004). The women of India, Nepal, Bangladesh, Pakistan, and Sri Lanka are in an unyielding position to obtain respect, power, and alleviation from their traditional roles as they face a number of social, legal, and political barriers. Violation and disregard for their health has made it utterly impossible to retreat from their subordinate status since violence, discrimination against women is so deeply woven into this region’s cultures.

As the sex trafficking industry grows and the numbers of HIV infections soar, South Asia is piteous with regards to the degradation of women’s health and reproductive rights. Governments and international committees have implemented laws and policies with special attention to women’s reproductive health, yet, these measures have not been effective. Under Nepali law, traffickers can face a prison sentence up to 20 years. In Bangladesh, the Prevention of Women and Child Repression Act, in 2000 made sexual harassment and repression identified crimes as well as the death penalty for those who are found guilty of rape. The constitutions of India, Nepal, Bangladesh, Pakistan, and Sri Lanka prohibit trafficking of humans and forced labor, including prostitution. These laws cannot need to be enforced by non-corrupt, non-gender biased officials (CEDAW, Article 6, India, Nepal, Bangladesh, Pakistan, Sri Lanka).

There are many forms of trafficking such as forced labor, domestic servitude, and organs sales; but sex trafficking has become the most lucrative of them all. This business holds the dubious reputation of being the fastest developing, billion dollar criminal enterprises in the world - its hub being South Asia. The United Nations Children's Fund (UNICEF) estimates that in the past
thirty years, 30 million women and children have been victims of trafficking in Asia for sexual exploitation (The Center for Reproductive Rights, 2004). A combination of the lack of agency, illiteracy, ignorance, severe poverty, and traditionally rooted gender disparity all make it possible for trafficking circuits to flourish. These victims are lured into promises of a better life by being offered a job or an education, some are kidnapped and sold by friends and family members for profit. Studies have also shown that most, if not all women who are trafficked into metropolitan cities are from rural areas and from the lower socio-economic strata (IWRAW, Pakistan, 2007).

Article 6 of the CEDAW report addresses the exploitation of women and trafficking with the two major concerns - absence of the healthcare needs for sex-trafficking victims and discrimination against commercial sex workers. Many countries are implementing similar multi-pronged strategies to alleviate violence against women. This includes: legislative action, training and awareness, support services through crisis intervention and rehabilitation centers, strict enforcement of poverty alleviation programs, enhanced female education, participation of law enforcement measures, and income generation schemes (CEDAW, Article 6, India, Nepal, Bangladesh, Pakistan). In Nepal, the Ministry of Women, Children and Social Welfare (MWSW) has formulated a National Plan of Action to stop trafficking and commercial sex exploitation that involves many of the actions listed above. NGOs such as the National Network against Girl Trafficking and Alliance against Trafficking in Women in Nepal are both very active in the fight against trafficking (CEDAW, Nepal, 2003).

Unique to South Asia, trafficking takes place across borders since the sex industry’s center of activity is in India, especially in its metropolitan cities such as Calcutta and Mumbai. Girls from rural mountain towns are usually targeted due to their immobility, desperation, and harsh
economic conditions. The typical age of recruitment is most often between ages 10 and 14. Border checks are being carried out in trafficking-prone places, yet it is impossible to check borders completely. There is also a “trans-border problem” in Pakistan, with girls being brought over to the sex industry from Bangladesh and Nepal (National Network Against Girls Trafficking, 2000).

On a more positive note, the governments of these countries have collaborated on a recent project created by the Asian Development Bank to control widespread trafficking. The NHRC, UNIFEM and a number of NGOs have made serious efforts to rescue and rehabilitate girls. In 2001, a new scheme called ‘Swadar’ that concentrates on rehabilitation for women and child sex workers was implemented in India. Its program is designed to provide immediate relief from mental and physical damages of prostitution and other kinds of sex work. Girls that cannot rescued or temporarily relieved are given support through HIV prevention programs. However, medical facilities to treat women that have already contracted the virus are sparse (CEDAW, India, 2007).

**HIV**

It is reported in South Asia, 50% of the women sex workers have two or more STDs and a large number have also contracted the HIV virus (United Nations, 2001). According to the National AIDS Control Organization (NACO), the Ministry of Health and Family Welfare, 3.5 million people are living with HIV/AIDS in India, making it the second largest infected population in the world (CEDAW, India, 2007). Other South Asian countries also have high infections rates, yet exact figures are hard to obtain because not every case is reported and access to HIV tests
are not always available. The vastness of the epidemic is reflective of inefficient health-care systems and discrimination and violence towards women in the public and private sphere. Women’s lack of economic opportunities and education make them particularly vulnerable to the disease. Studies have shown that infected women are at high risk for abuse, abandonment, and even murder. Because of their low legal status and unequal standing in marriages, matrimonial laws make infection with a venereal disease grounds for divorce in Bangladesh, India, Pakistan, and Nepal (Albertyn, 2004).

Various initiatives have been made to deal with this issue. Millennium Development Goal Six aims to reverse the incidences of HIV/AIDS by 2015 (Sweetman, 2005). In 2000, the South Asian Association for Regional Cooperation (SAARC) signed a Memorandum of Understanding (MoU) with the World Health Organization (WHO). In 2004, SAARC signed an MoU with the Joint United Nations Program (UNAIDS). Both aimed to assist HIV/AIDS prevention as well provide support for the infected individuals (SAARC, 2008). Article 12 of the CEDAW report discusses how most countries focus on education through distribution of pamphlets, condoms, training of health personnel, health awareness programs, blood screenings, surveillance, and promoting safe sex behavior. The National Center for AIDS and STD Control (established under the Ministry of Health in 1993) are also very involved in providing education and prevention of mother-to-child transmission. Since testing and treatment are hard to come by through government hospitals, NGOs play in important role. In Nepal alone, over 200 NGOs work solely in women’s reproductive health and providing health services to women (CEDAW, Article 12, Nepal, 2003).

All calls for action focus on prevention strategies, but have neglected to protect the rights of
people infected. For example, Bangladesh prohibits restriction of individual rights and freedoms based on health status. CEDAW and the Beijing Platform both recognize the need for governments to give special attention to the rights of women and girls and their vulnerability to the disease. Also, the Commission on Human Rights has encouraged countries to work on protecting women from violence and stigmatization resulting from HIV/AIDS (Commission of Human Rights, 1997).

The growth of commercial sex work and the maltreatment of women with infectious diseases are global development concerns that can mostly be attributed to poverty. Promises to stop human trafficking in South Asia are bleak, as the sex industry has become integrated into all sectors of society and legal provisions hold no weight. Although small improvements have been made, prevention programs continue to progress slowly because these issues relay back to so many other struggles faced by women in third world countries. Although education can bring about change, if a woman is not in a position to negotiate safe sex practices with her partner, there is no way to ensure protection against HIV/ AIDS or bring about safe family planning methods (Sweetman, 2005). In 2001 the General Assembly declared at the UN Special Session on HIV/ AIDS, “Gender equality and the empowerment of women are fundamental elements in the reduction of the vulnerability of women and girls to HIV/ AIDS” (United Nations, 2001). In order for advancements to be made in women’s health, women first need to be seen as valuable contributors to a society that deserve access to all of their health care needs.
WOMEN’S HEALTH

Women’s and children’s health care services are the backbone to a strong society. In South Asia, the availability, accessibility, and quality of women’s health care needs much improvement. Article 12 of CEDAW calls for 1) equal access to health care services by both men and women, and 2) pregnancy-related services for women. Regional women’s health concerns in South Asia include high Maternal Mortality Rate (MMR), shorter life expectancy, non-availability of treatment facilities for victims of violent crime, hunger and malnutrition, high risk for communicable diseases, and a lack of reproductive rights. Articles 5b, 10h, and 16e address issues of maternity and family planning as shared responsibilities between men and women. CEDAW’s overarching critique of health services and reproductive rights in South Asia emphasizes an overall lack of political will to implement changes.

Despite vast regional advances in technology and access to medicines, the Maternal Mortality Rate remains unacceptably high in most South Asian Countries. The numbers are as follows (deaths per 100,000 live births):

- Nepal: 530/100,000
- Pakistan: 340/100,000
- India: 440/100,000
- Bangladesh: 380/100,000

*Comparison: United States: 9/100,000

India alone accounted for almost 25% of worldwide maternal deaths (Hill, Thomas, & AbouZahr, 2007). Both CEDAW and international NGOs recognize the persistent problems surrounding maternal mortality rate, offering a myriad of recommendations for the region in each country’s respective sessions. First, there is a need for increased maternal health care services in the form of mobile clinics to reach rural women lacking access to transportation or...
the capital necessary for transportation (bus/ taxi fare). These clinics should also offer emergency obstetric and antenatal care. Second, there is a need to reduce unsafe abortions through increased contraceptive services, noted especially in Bangladesh and Pakistan. There have been some positive developments in MMR in South Asia. In Bangladesh, the MMR dropped from 640/100,000 in 1986 to 380/100,000 in 2001 (CEDAW Committee, 2004, Pakistan). Although there is much room for improvement, it is a significant and commendable reduction in maternal deaths.

In South Asia, life expectancy is shorter for women than men. Day-to-day social realities in South Asia, which are most unjust, contribute to women’s increased mortality. These include limited access to education, food, and health care; exposure to acute malnutrition, STDs, unsafe abortions, and early pregnancies with complications. Many CEDAW Articles call for increased attention paid to women’s health, literacy, and victimization through violence in South Asia. The Committee has criticized all four countries for lacking health facilities able to respond to violence against women. There are insufficient facilities to treat skin burns or perform reconstructive surgeries for resulting sensory disabilities. CEDAW calls for more resources for rape victims. Improved forensic medicine training for doctors is an important step towards prosecuting rapists. In this way, women’s health and justice are linked.

Malnutrition affects rural, third world women more acutely than any other population demographic. In South Asia, starvation deaths are spiraling, and are closely tied to the breakdown of traditional livelihoods due to trade liberalization policies, landlessness, and the unprofitability of subsistence farming. This leads to a sharp increase in household pressures resting on rural women involved in the informal sector. There is rising exertion (output) and
falling nutrition (intake). Culturally, women in South Asia traditionally eat last after feeding the rest of the family. In Bangladesh, women are twice as likely to suffer from anemia as men. When women have equal access to economic opportunities, land, capital, political representation, and legal rights, empowerment and equality will theoretically cause hunger rates to decline.

Tackling issues of family planning and reproductive health issues is difficult in South Asia due to deeply held traditional taboos surrounding sex. Ministries of Education and Population Welfare are devising ways to appropriately incorporate “family life” education programs into general discussion (CEDAW, Pakistan, 2005). Abortion remains illegal in Pakistan, Bangladesh, and Nepal; in India, it is illegal, but rarely available. Prior to the initiation of CEDAW, twelve percent of maternal mortalities in South Asia stem from unsafe, illegal abortions (Frejka, 1985). There is clearly a combined need for culturally sensitive family planning programs and legalized, safe abortion.

CEDAW urges South Asian countries to commit to women’s health because thus far, lack of political volition is killing South Asian women. CEDAW cited ambitious programs put forth by India, but inadequate services and insufficiently trained personnel. Existing health services are poorly monitored and standards or regulations rarely enforced. There is evidence of idealistic goals for improvement combined with lowering of resource allocation to the health sector. South Asian countries must make a concrete investment in improving health services to comply with CEDAW requirements.
Education

The educational systems across South Asia have been vastly ineffective, and the disparity between males and females in educational opportunities and literacy rates demonstrate the gender inequality in the region. In primary schools and in higher education, the drop out rate for girls is much higher than that of boys, which equates to an overall lower literacy rate for women in this region. In Nepal, less than a half percent of women have a Bachelor’s degree, a statistic that reflects the lack of education for both children and adults (CEDAW, Nepal, 2003). Other reasons for gender disparity in the classroom include fewer resources and facilities for girls’ schools, along with fewer girls’ schools in general. In Pakistan, two-thirds of primary schools are all boys’ schools (CEDAW, Pakistan, 2005). Enrollment is another key issue; in many parts of India in 2003, less than 70% of girls enrolled in primary schools (CEDAW, India, 2005) while in Nepal, less than half the girls enrolled in primary and secondary schools (CEDAW, Nepal, 2003).

To meet with the goals stated by the CEDAW convention, countries like India and Bangladesh have attempted to establish and implement a mass-oriented, universal system of education for primary and some secondary schools in hopes to improve the quality of education and promote gender sensitivity and gender equality in schools. The governments of India, Nepal, and Bangladesh have made education for younger children free in hopes to keep children, particularly girls, in school. In Bangladesh, school is free for girls through grade 12, numerous cash incentives are given for girls with high attendance, and the Fifth Five-year Plan is working to improve facilities, equipment, and participation by women (CEDAW, Bangladesh 2003).
Under the Balika Samriddhi Yojana, India is improving girls’ access to schools and creating incentives for girls who remain unmarried. All across the region, governments and NGOs are implementing nutrition programs to feed children, creating another incentive for higher school enrolment. In addition, governments are implementing programs to promote gender sensitivity training (CEDAW, Pakistan, 2005).

Despite CEDAW’s goal to eliminate stereotypical gender roles, societal influences provide an obstacle to progress. Schools in Pakistan still use textbooks that have gender biased stereotypes portraying women as subordinate to men (The Democratic Commission for Human Development and National Commission for Justice and Peace, 2007). Cultural and traditional values create more challenges, as patriarchal norms lead to a son preference over the daughter. To many families experiencing economic hardships, it is preferable for their daughters to stay and work at home and marry early, despite free education. Other challenges when attempting to implement CEDAW include reaching the most disadvantaged girls—girls from socially burdened tribes or castes—or girls that are simply in rural communities and don’t have access to schools.

**ECONOMIC OPPORTUNITIES**

The ratification and implementation of CEDAW represents a landmark effort to address the issue of economic opportunities (or lack thereof) for women in South Asia. Articles 10, 11, and 13 of this convention provide a universal reference to guarantee women their economic rights to abate the effects of long-standing and pervasive economic discrimination towards women in this region. Thus, States Parties are obligated to take necessary measures at the national level to implement this wide-ranging agenda, which includes providing equal educational, employment
and remuneration opportunities, and recognizing the role rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy.

Article 10 of CEDAW emphasizes the link between women's education and economic opportunities i.e., women's access to employment is largely a function of their access to education and skills. As explained in the section on education, National governments in the South Asian Region have focused on promoting quality education for women. For example, India has expanded non-formal education by establishing additional vocational training institutes and community polytechnics for women that provide skills training for avenues into employment. Yet, distinct gender gaps still exist in this region. In Pakistan, for instance, a low female literacy rate is compounded by factors such as restricted female mobility, domestic engagements, early marriages, long distances to school, shortage of trained teachers, insufficient transport facilities and lack of financial resources. This culminates into limited opportunities for women to act on par with men in the economic sphere.

Article 11 in CEDAW instructs governments to eliminate legal restrictions on women in terms of profession or choice of employment thereby ensuring that women have rights to equal remuneration, social security, and safety in working environments. In theory, the Constitutions of India, Bangladesh, Pakistan, Sri Lanka, Nepal and Bhutan, all guarantee equal rights to citizens with regard to freedom of trade, business, or profession (except for certain restrictions on hazardous forms of employment according to labour laws based on ILO conventions). Government mechanisms have attempted to involve women in the economic sphere. For instance, for public sector employment in Pakistan, a 5% quota exists for women. (Iwraw-Pakistan). Similarly, the Bangladesh government has decreed that 60 percent of all new recruits
involved in primary school teaching must be women (Bangladesh CEDAW Country report 2003). States also articulate provisions for securing just and humane conditions of work, ensuring that children and women are not employed in vocations unsuited to their age or sex. For instance, laws in India enjoin employers to extend maternity benefits and provide crèches if a certain percentage of their workers are women.

Yet, as Pakistan’s NGO shadow report (Irawar Pakistan 2007) points out, most women in the public sector face harassment in the workplace and form a minority in decision-making and managerial positions. Women’s employment is largely restricted to the teaching and health sector, the traditionally accepted employment positions for women. In Bangladesh, women’s wages are nearly one half of what men’s and the government has not instituted any mechanism to monitor and change this (Bangladesh IRWAW NGO Shadow Report 2004). Further, governments have not publicized the messages of Article 11.2(a); so in many instances, women in the private sector are forced to resign if they marry or become pregnant. Thus, women have little institutional support for their multiple roles as mothers, wives, and wage earners.

Governments have ignored issues like “the feminization of the labour force” and the exploitation of women in low paid, hazardous and insecure jobs in the unorganized sector and export processing zones. A large majority of women in the South Asian workforce are mostly engaged in the informal sector; therefore, they remain unacknowledged in the national economy and unprotected by legislative safeguards such as minimum wage and safe working conditions. In Bangladesh, the problem is especially rampant in the export-oriented industries such as electronics, garments and shrimp processing (Naila Kabeer in Gender and the Millennium Development goals). Rural to urban migration of women in search of jobs often leads to low pay
scales, exploitative working conditions, and inadequate social welfare. The impact of Structural Adjustment Policies has had serious repercussions on women’s employment, intensifying their struggle for survival and increasing wage differentials between them and their male counterparts. (Lourdes Beneria, Gender Development and Globalization).

Article 13 in CEDAW requires that State Parties must take measures to eliminate discrimination against rural women. In South Asia, women’s participation in agricultural labour ranges from preparing the land to post harvest operations, seed selection, storage, transplanting, weeding, harvesting, and harvest operations in most areas. For instance, 75 percent of Pakistan’s female population lives in rural areas and rural women in India contribute roughly 55 to 66 percent of the total labour in overall farm production and 75 percent of Pakistan’s female population lives in rural areas. Given women’s contribution to the agrarian economy, the major issues confronting them today is the lack of titles to land, the lack of access to credit, and the lack of access to decision making in rural economies. The Government of Bangladesh notes in its report that “there is a growing awareness among government and non-government agencies [of the emerging need to involve] women at greater percentage in large-scale investment by providing necessary credit, changing rules and regulations of financial institutions and creating a better environment for women” and that “the contribution of private banks towards women’s entrepreneurship development in the country is not encouraging” (Bangladesh NGO Shadow Report 2004).

In view of the critical role of women in the agriculture and allied sectors, concentrated efforts must be made to ensure that benefits of credit access, training, extension and various programs
reach them in proportion to their numbers. The role played by the Grameen Bank in Bangladesh marks a turning point in access to credit. Credit, according to the Grameen Bank, is an empowering agent and serves as a catalyst in the overall development process. Spurred by the success of the Grameen Bank, a number of government and NGO supported microcredit initiatives have been established in South Asia such as the Khushali Bank in Pakistan (government bank providing microcredit services to poor women) and SHARE in India (private NGO that offers effective micro-grant programs targeting destitute women). However, access to credit by itself may not be sufficient. Further programs for training women in soil conservation, social forestry, dairy development and other occupations allied to agriculture like horticulture, livestock, including small animal husbandry, poultry, fisheries etc., need to be expanded to benefit women workers in the agricultural sector.

WOMEN IN GOVERNMENT

Throughout the South Asian region, the presence of women in government is greatly varied. Indeed, even within one nation, the rights of women are not cohesive. As a general trend, women are subjected to discrimination that is both prohibited and allowed by laws throughout this region. Each state within South Asia has a different approach to government and economics. While some are following the global trend toward capitalistic markets, others fight this trend as a show of strength against western infiltration of their societies. Unlike the United States, most nations in South Asia combine religious law with government law. The major challenges with the implementation of CEDAW are the cultural and religious conflicts that arise when laws must be changed in order to adhere to the convention. Despite these difficulties, every nation within South Asia has made legal changes in an effort to fulfill the requirements of
CEDAW. In adherence to Article 8, all states parties have increased the percentage of women that will have government seats. However, this may be ignored in regional cases. Rural areas are hit hardest by this disparity, as local governments refuse to open polling booths for women and often the government seats reserved for women will never be filled.

Article 7 of the convention insists that states parties work toward the equal involvement of women in voting, as well as involvement in non-governmental organizations concerned with women’s political participation. In Pakistan, programs that exist for the purpose of empowering women appear to be under greater constraint relative to other parts of the world. In parts of India and Bangladesh, micro credit has been widely successful in increasing the number of women with their own income, yet similar programs in Pakistan have not had the same level of success (Weiss, 2003). When Pakistan finally brought their report before the CEDAW panel of experts. The Islamic government listed many examples of improvements in women’s rights throughout the nation, yet the panel of experts was not so convinced that the evidence presented by Pakistan was accurate. For instance, Pakistani officials were happy to announce the positive impact of a law was passed to abolish honor killings. The panel of experts however, presented data that clearly showed an increase in the number of these types of killing after the law had been passed. Further more, when such cases have been brought to the Pakistani courts, inconsistent judgments often follow; including extreme leniency for those perpetrators who are family members of the victims (CEDAW, 2007, Pakistan). Without consistent punishment for crimes of violence against women, CEDAW is being undermined even by those nations who appear, on paper, to be making sincere efforts toward complete adherence to the convention.
As Article 2 states, CEDAW members should be actively working to end any form of discrimination against women. This includes the alteration of laws and more controversially, the abolition of customs, which allow for the unequal treatment of women. Local customs, for the most part shape the identity of a people. When a society is asked to change their culture, it is often perceived as a violation of values deeply embedded within that culture. Discomfort, hesitancy, and often outright rejection are common reactions. Groups and organizations exist to help with this difficult process, but often times end up playing a role that only serves to further endanger women.

In Bangladesh, the 1990s saw a transformation to democracy also accompanied by the increased alienation of women. From public stoning, to forced divorces, the elite and the clergy took over as judge and jury, even as the nation was supposedly on a path to democracy. NGOs are helping and hiring poor women and as a result are targeted with violent acts. Most vulnerable are women who participate in public rallies. These women have been placed in a very dangerous situation, being considered the most powerful agents to act on their own behalf, women are urged to fight for their rights, but face clergy-sanctioned violence if they dare to truly take action (Karim, 2004). Bangladesh still maintains their reservation to Article 2 of CEDAW due to the fact that religious law governs the realm of marriage; including custody, and property rights to individuals. According to reports brought before the panel of experts advising states on the implementation of CEDAW, the government of Bangladesh is recommended to begin the institution of a uniform civil code that would grant the same rights to all women, despite their religion (CEDAW, Bangladesh, 2004).
The extended period of war in Sri Lanka has presented a very different situation for women. Although many women play an active role in the conflict by fighting on the front lines, new avenues of agency have also opened up for women in the absence of men. Women replace men in traditional head of household roles, making them the sole providers and decision-makers for their families in countless cases. Scores of families have been left with one parent, but rather than being empowered by these new roles, men and women are facing the dual burden of maintaining family livelihood while also trying to recuperate from decades of war. While a hefty burden to bear, it can be said that wartime in Sri Lanka has had a positive impact on the increased agency of women. This cannot, however be attributed to any laws being passed or implemented (Rajasingham-Senanayaki, 2004). This situation, while only specific to one South Asian state, is evidence that political rebellion is at least as effective in making a positive impact on women’s rights as the more globally accepted forms of social change such as constitutional amendments, and pressure from NGOs.

India is a unique nation within South Asia simply due to the many religions, and the many levels of formal and informal government. In some parts, women have greater freedoms due to laws written in an effort to adhere to the convention, yet in other parts of India, it is not the government, but individuals who work hardest to make positive trend into law. In the state of Jharkhand, the courts do not handle property disputes unless disagreements escalate to violence. Women’s individual claims to land are handled informally. In civil and revenue courts, the officials deciding the case will still call on the village leaders to aid in judgments. Article 3 mandates cultural sensitivity when making legislation changes. However, this example shows that local lawmakers at the village level play an important role, which is taken seriously not only by the local people, but by the formal court system as well (Rao, 2007).
In rural India, a major factor limiting the political participation of women is the limited societal mobility inherent in the region. The limiting of a rural woman’s mobility also impairs her ability to make informed decisions. Without the right to participate in society, a woman’s role in shaping that society is almost nonexistent (Vissandjee et al, 2006). However, in the state of Kerala, India a radical program has been introduced in an effort to decentralize the government. Local individuals have been encouraged, even actively mobilized by the government to participate in their local law-making process. This includes involvement in shaping local budgets, and the creation of projects strictly by democratic processes. Local groups of citizens coming together to decide what is locally best for their village, then successfully implementing those programs has proven these assemblages to be powerfully commanding institutions. Although still met with skepticism, the decentralization process in Kerala provides an example of a positive trend toward development by simply allowing citizens the opportunity to help shape their own government in a very hands-on way (Heller et al, 2007).

**GENDER MAINSTREAMING**

Gender Mainstreaming is integral to improving the status of women in South Asia, and elsewhere in the world for that matter. Articles 3 and 5 of CEDAW address Gender Mainstreaming, which is defined as “ensuring that gender perspectives and attention to the goal of gender equality are central to all activities” within all factors of government or organizational programs (CEDAW, 1979). This includes budgets, censuses, environmental policy, economic policy, education, and health.
Unfortunately, the countries of South Asia rarely actively pursue gender mainstreaming in all areas, choosing instead just one or two of the above. Poverty reduction strategies have been some of the first policies to include gender sensitivities in the region (UNIFEM, 2005). Another factor, however, that seems to be negated is armed conflict policy. As women are a subjugated group in South Asia, any conflicts that happen affects them the worst. Unfortunately, this is mostly ignored in South Asia. While all countries claim to incorporate gender-specific training in their police and army forces, this is a very hard variable to measure.

India has a reservation to Article 5 of CEDAW which is about modifying the “social and cultural patterns of conduct of men and women” to eliminate prejudices “which are based on the idea of... stereotypes roles for men and woman” and also about creating a common responsibility for the raising of children between men and women (CEDAW, 1979). This reservation is a large obstacle in implementing CEDAW and gender mainstreaming programs. Bangladesh also has a reservation to Article 2, which addresses incorporating the principle of equality between men and women in the constitutions. On a more positive note, India has made it mandatory for all governmental departments to submit gender budgets. Nepal has implemented gender mainstreaming into its 2001 Population and Housing Census. Bhutan has been a leader in conducting studies to examine how certain social issues affect women (UNIFEM, 2005). In Pakistan and India, the media has been a subject of gender mainstreaming dialogue.

However, South Asian states generally exhibit a lack of gender sensitizing on a large scale, and these programs have not been holistically implemented throughout state governments. It is the opinion of the authors that CEDAW must specifically outline possible gender mainstreaming

\[1\] These are called the Gender Pilot Studies, and are primarily focused on assessing women’s access to resources.
projects, and place additional emphasis on the importance of gender mainstreaming in eliminating discrimination against women in all its forms.

CONCLUSION

In summing up this analysis of the implementation of CEDAW in the South Asian region, the journey on the road to equal rights for men and women has indeed come a long way. Still, given the enormous challenges with regard to non-discrimination and equality of women in South Asia, the implementation of CEDAW must be underlined by concrete steps with regard to laws and policy making. An important step forward is that CEDAW sessions have witnessed dramatic increase in NGO presence and attention to the Committee's work. In addition to representatives of international NGOs, some of whom have been faithfully observing CEDAW sessions for years, several national level organizations are on hand to observe the review of their governments' reports and to learn more about the reporting and review process. SAARC (The South Asian Association for Regional Cooperation) too can play an important role in women's empowerment in fostering regional cooperation amongst member states and working together in a spirit of friendship, trust and understanding.

While CEDAW legitimizes women's claims for rights and makes possible women's transformation from passive beneficiaries to active claimants, its existence as a positive legal framework for women's rights does not automatically confer rights on women. The Convention is largely dependent on the political will of Governments. This political will can be created through the development of a highly conscious constituency, not only among women and women's groups, but within Government bureaucracies as well. There is an urgent need to raise
awareness and develop skills at various levels in relation to the Convention among women, government functionaries, lawyers and members of the judicial system.

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