

# The Optional Protocol It's Benefits & Potentials

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# What is Optional Protocol ?

- 🇺🇸 The optional protocol is a separate formal treaty obligation open to ratification to states parties that are already party to the CEDAW Convention.
- 🇺🇸 The optional protocol creates access to Justice for women at the international level whose claim have been denied at the national level.
- 🇺🇸 The optional protocol is a confirmation of states' commitment to complement national remedies with international avenues of redress for alleged violations of the rights protected by the CEDAW convention.

A faint, stylized illustration of two hands shaking is visible in the background of the slide, rendered in a light teal color. The hands are positioned horizontally, with one hand on the left and one on the right, palms facing each other.

✚ This is the first gender specific international compliant procedure for reviewing individual or group claims on grave or systematic violations of human rights.

✚ At present 85 States Parties ratified the Optional Protocol to the convention. So far 14 communications have been registered since the optional protocol began operating.

## The protocol empowers the CEDAW committee on the following areas:

- ▶ To receive complaints regarding specific violations of the convention.
- ▶ Carry out inquiries into grave and systematic violations of the convention
- ▶ After considering an admissible complaint – to make appropriate recommendations for its remedy.

# Two procedures

- Communication procedure: Through which the CEDAW Committee can review the complaints if rights, guaranteed by the convention have been violated and identify remedies for victims.
- Inquiry procedure: Through which CEDAW can initiate investigation its own into the grave or systematic violations by a state party of the convention.

🚩 Article 10 of the optional protocol provides that upon ratification or accession, a state party may declare that it does not accept the inquiry procedure.

🚩 Bangladesh is the only country in the region, which ratified the optional protocol in 2002, but opted out of the inquiry procedure.

Pakistan has not yet ratified Optional Protocol.

Maldives has ratified the Optional Protocol in 2006.

Other South Asian countries not yet ratified the protocol .

- Under article No. 4, the committee shall not consider a communication unless it has ascertained that all available domestic remedies have been exhausted
- Author of the communication must be personally affected by the violations
- The same complaint must not be pending before another international forum

# The communication procedure

- Under article no 3 of the Optional Protocol communications shall be in writing and shall not be anonymous.
- Must refer to a state which is party to both CEDAW & its Optional Protocol
- Must be submitted by, or on behalf of an individual or group of individuals under the jurisdiction of a state which is a party to both the convention & Optional Protocol



■ At the 37th session of the CEDAW committee meeting, a communication #11/2006, in the case of Constance Regress Salgado V. The United Kingdom of Great Britain & Northern Ireland was declared inadmissible. The communication was related to a nationality issue and the alleged violation occurred in 1952 when CEDAW convention was not in existence. Moreover before presenting the case to the CEDAW available national remedial options were not exhausted

# The inquiry procedure

- This is a mechanism that enables the CEDAW committee to initiate and conduct investigations on large scale and wide spread violations of women's rights occurring within the jurisdiction of a state party.
- Enables the CEDAW committee to address systematic & wide spread violations.
- Allows the CEDAW Committee to recommend measure to combat structural causes of discrimination against women.


● Provides the CEDAW Committee with an opportunity to set out a broad range of recommendations to achieve equality between women & men.

● **Grave violations** would constitute severe abuses. A single violation can be grave in nature. CEDAW committee may determine that an inquiry into a single grave violation is appropriate on the basis of the facts in a particular situation. For example, if one hundred destitute homeless mothers, their children and fifty traffic survivors are forcibly ousted from a govt. run safe home without any alternative arrangement - it will constitute a single grave violation.

● The term **systematic** refers to the scale or prevalence of violations. Violations may be systematic in character without resulting from the direct intention of the states party. For example- a government policy to build an Eco park in the State forest areas may result in the eviction of few thousand indigenous people including women and children from their ancestral property & homestead without their consent and adequate compensation.

# Optional Protocol and its potential

- ✚ The optional protocol to CEDAW is a mechanism that provides access to justice for women at the international level by providing additional power to the CEDAW Committee.
- ✚ The optional protocol makes CEDAW a useful tool against gender discrimination.



The optional protocol creates an opportunity for review of cases by an independent expert body with specialized expertise on gender discrimination & women's human rights issues.

The optional protocol has created a mechanism for redress of individual grievances, group grievances & enables CEDAW to address them more effectively.

# Optional Protocol & its benefits

- It would promote effective implementation of the convention by furthering the interpretation & practical application of the convention.
- It would allow a thorough appraisal of the relevant National Law, Policy & Practice in the specific cases.
- It would allow redress of individual grievances, which may not be otherwise possible.

🇺🇸 International norms and standard of women's human rights entailed in the convention would be applied to the case in context.

🇺🇸 The optional protocol can play critically important role to realize the formal rights, can also help to create better confidence in the legal system of the country.

🇺🇸 The optional protocol is part of a larger strategy to ensure the full integration of women's human rights concerns in the international human rights framework.



- The optional protocol can help to integrate women's human rights into all national development programs.
- The optional protocol would place the women's convention on an equal footing with other international human rights treaties that have complaints procedures.
- The existence of an optional protocol itself works as a deterrent to violence against women.

THANK YOU....

