

# **SKRIPSI**

## **INTERNATIONAL LAW REVIEW ON THE PROTECTION OF WOMEN WORKER IN THE CASE OF ANALYZING WOMEN RIGHTS ACCORDING TO THE CEDAW CONVENTION**



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MAKASSAR  
2023**

**TITLE PAGE**

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THE CEDAW CONVENTION**

**Submitted by:**

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**THESIS**

As a Final Thesis in the Context of Completion of Undergraduate Studies  
of the Department of International Law, Legal Studies Program

**INTERNATIONAL LAW DEPARTMENT  
FACULTY OF LAW  
HASANUDDIN UNIVERSITY  
MAKASSAR  
2023**

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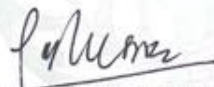
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## ABSTRACT

**ANDI ALMIRA MAHARANI SURA (B011191339), “INTERNATIONAL LAW REVIEW ON THE PROTECTION OF WOMEN WORKER IN THE CASE OF ANALYZING WOMEN RIGHTS ACCORDING TO THE CEDAW CONVENTION”.** Supervised by Abdul Maasba Magassing, Iin Karita Sakharina

This study aims to determine the provisions in national law in Indonesia regarding protecting women workers by the principles of the Convention on the Elimination of All Forms of Discrimination against Women.

The type of research that the authors used is normative legal research using statute approach. The types and source of legal materials that used in this study are primary, secondary, and tertiary legal materials. The method used to collect those legal materials is by using literature research method then analysed by using descriptive method.

As the results of this study, are 1) CEDAW provides women worker rights through many regulations and 2) CEDAW has influenced the Indonesian Law regarding the protection of the rights of women workers with the Labor Law No. 13 of 2003 which provides protection for women's maternity rights.

**Keywords: Convention on The Elimination of All Forms of Discrimination against Women, Employment, and Women Worker Rights.**

## FOREWORD

Alhamdulillah, all praise be to Allah subhanahu wata'ala. Who has provided extraordinary favors so that the writer can complete final thesis with the title “International Law Review on The Protection of Women Worker in The Case of Analyzing Women Rights According to The CEDAW Convention” which is a requirement for completing a bachelor's degree (S1) and for obtaining a Bachelor of Law degree at the Faculty of Law, Hasanuddin University.

With all humility, the author dedicates this thesis to author's father namely Alm. Andi Sura Suaib thank you for giving me the best things in his life, from childhood to the last moment of his life. Alhamdulillah, now I can be at this stage; thank you for bringing me to this place, even though, in the end, I have to go through this journey without you accompanying me. Author's mother Hj. Heriani Alimuddin, S.H. The most incredible woman who is always an encouragement. Thank you for giving birth to, caring for and raising me with love, always fighting for my life so that the writer can grow up and be in his current position. To the author's sister Andi Adiba Saeha Maharani Sura is the best lil sister who always accompanies this life when she is happy or sad. Thank you for strengthening each other. And all the big family Petta Maming and Alimuddin Djima fam that the writer cannot mention one by one. The author is grateful for all the support and prayers.



On this occasion the author also thanks a lot with all respect to the main-supervisor of the author penulis Prof Abdul Maasba Magassing S.H., M.H. and assistant supervisor Prof. Dr. Iin Karita Sakharina, S.H., M.A., Thank you for the guidance, criticism, and suggestions and for always taking the time to interrupt busy. Thank you, Prof. I hope your hard work pays off and you are always blessed with health. As well as for the lecturers examining the author Dr. Kadaruddin, S.H., M.H. CLA and Dr. Tri Fenny Widayanti S.H., M.H. who also provides knowledge and advice in building this thesis writing and has been allowed to provide an assessment of this thesis.

The author would also like to express his feelings and thanks to:

1. Prof. Dr. Ir. Jamaluddin Jompa, M.Sc. as the Rector of Hasanuddin University and his staff.
2. Prof. Dr. Hamzah Halim, S.H., M.H., M.A.P. as Dean of the Faculty of Law Hasanuddin University and all Vice Deans of the Faculty of Law Hasanuddin University.
3. Dr. Muhammad Ilham Arisaputra, S.H., M.Kn. as the Head of the Bachelor of Law Study Program, Faculty of Law Hasanuddin University.
4. Dr. Winner Sitorus, S.H., M.H., LL.M. as the author's academic advisor who has provided direction and guidance to the author during the lecture period.
5. Dr. Birkah Latif, S.H., M.H., LL.M as the Head of the Department of International Law, Faculty of Law Hasanuddin University and the

Secretary of the Department, Dr. Kadaruddin, S.H., M.H., CLA who has provided a lot of valuable knowledge.

6. All lecturers and staffs of the Faculty of Law Hasanuddin University, especially Lecturers of the Department of International Law and Lecturers in Charge of International Classes.
7. To my international class comrades who have accompanied the author for about four colourful years and have become family at the Faculty of Law, Hasanuddin University.
8. Bestfriends of writers from Senior High School "Ayang" until now (Salsabil, Yuyun, Mega, Lulu, Titin, Afifa, Ima) who have shared laughter, tears and life values and also forbade writers from the meaning of sisterhood even though we are not blood-related. Best Friend forever
9. "Apart boboboy" lovely friends, Syabina, Ipeh, Fira, Rifa Thank you for your help during this college period. The writer gets endless happiness after getting to know them.
10. Friend of KKN GEL. 108 Pengadilan Agama Class 1B Maros, even though it has only been a few months, the writer is very impressed that being able to meet you and be friends is one of the most exciting things the writer feels, especially for Dinda, Esther, and Nanda.
11. International Law Students Association Chapter of Hasanuddin University (ILSA UNHAS), Thank you for being a place of learning,

building friendships and valuable values that cannot be mentioned one by one.

12. Also The entire extended family of Hasanuddin Law Study Center (HLSC), which is a place to study, build relationships, and learn during the author's lecture period

13. Ramadhela Vaneta, the writer's cousin, who has always accompanied her since childhood until now, has many similarities in acne until romance. Thank you for strengthening the writer when the writer fell. Thank you for being a place to complain and exchange ideas.

14. Alvira and Galu, the writer's friends from junior high school, thank you for the beautiful friendship, The good things passed together become unforgettable memories for the writer.

Thus the foreword that the author can convey the author's hopes that this thesis can benefit people and the researchers themselves.

*Wassalamu'alaikum warahmatullahi wabarakatuh.*

Makassar, 5 July 2023

Andi Almira Maharani Sura

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# CHAPTER I

## INTRODUCTION

### A. Background

Human rights have universal values and the existence of human rights itself has appeared since birth as independent individuals. Humans have it not because it is given to them by society or based on positive law but solely on their dignity.<sup>1</sup> This right is inherent in a person who cannot be contested. Therefore, they must be protected, respected, and maintained and may not be ignored, diminished, or seized by anyone.<sup>2</sup> However, human rights do not completely give freedom to someone without regard to the rights and interests of others. Therefore human rights are based on the most fundamental things, namely the right to freedom and equality.<sup>3</sup> Universal Declaration of Human Rights is the first public statement from the world community on human rights and contains 30 articles, this declaration then gave rise to various international agreements, human rights instruments at the regional level, each country's constitution, and laws in each country related to human rights issues.<sup>4</sup>

There are important aspects which if these human rights are not heeded by the state or society will cause quite a crucial impact, namely the

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<sup>1</sup> Jack Donnelly, 2003, *Universal Human Rights in Theory and Practice*, Cornell University Press, Ithaca and London, page 7-21

<sup>2</sup> Law Number 39 of 1999 concerning Human Rights

<sup>3</sup> Serlika Aprita and Yonani Hasyim, 2020, *Hukum dan Hak Asasi Manusia*, First Edition, Mitra Wacana, Jakarta Page 7.

<sup>4</sup> ICJR, *Deklarasi Universal Hak Asasi Manusia*, Available at <https://icjr.or.id/deklarasi-universal-hak-asasi-manusia/>, Accessed January 1, 2023



emergence of gender discrimination Gender discrimination causes loss, deviation, or elimination. Discrimination means all limitations, affronts or ostracism, both direct and indirect, on grounds of differences in religion, ethnicity, race, group, faction, social status, economic status, sex, language, or political belief, that results in the degradation, aberration, or eradication of recognition, implementation or use of human rights and basic individual freedoms in politics, economic, legal, social, cultural and other life<sup>5</sup>.

In reality, there is still gender discrimination in various aspects, including in the field of work. Forms of gender discrimination practices that still exist today include in the field of employment (labor), for example, job acceptance, opportunities for training and promotions, participation in decision-making, differences in retirement age, and Termination of Employment (PHK) for married women workers.<sup>6</sup>

Currently, the number of women participating as workers in various fields of community life is increasing.<sup>7</sup> Women change because the role of women in the economic field also changes.<sup>8</sup> The problem of poverty can trigger this. Women who are actually at home, work and do household chores such as taking care of children, cooking, washing, sweeping and so

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<sup>5</sup> Muhammad Kasim, "Peredaan Praktek Diskriminasi Berbasis Gender oleh Prinsip-Prinsip Keagamaan", Jurnal Iman dan Spiritualitas, Vol 2, Nomor 2, 2022, page 273-274.

<sup>6</sup>Kementrian Pemberdayaan Perempuan dan Perlindungan Anak, *Perlindungan Wujudkan tempat Bebas Diskriminasi Bagi Perempuan*, <https://www.kemenpppa.go.id/index.php/page/read/29/2395/wujudkan-tempat-kerja-bebas-diskriminasi-bagi-perempuan>, Accessed January 1, 2023

<sup>7</sup> Mochamad Mochklas, 2019, "Loyalitas Pekerja Perempuan", UM Surabaya Publishing, page 1

<sup>8</sup> Pudjiwati Sajogyo, 1985, *Peranan Wanita dalam Perkembangan Masyarakat Desa*, CV Rajawali, page 28.

on, tend to switch professions to work outside of household activities. As a result, working women will increase family income, automatically improving the quality of nutrition and health of all family members.<sup>9</sup>

Sadly women are considered inferior beings due to the strong patriarchal culture in social life, which places women in a difficult position. Even though there have been many opportunities for women to progress and develop in the current era of development, the level of progress has been different and even, and even the rhythm of the marching beliefs is different.<sup>10</sup>The entry of women into the workforce provides an opportunity for all women to take part in advancing the economy of a country. Therefore, women workers, especially those who work in heavy sectors such as factories, often become victims of the problem of gender discrimination which still occurs frequently.<sup>11</sup> One of the reasons for discrimination against women workers in the workplace is due to their reproductive factors, such as menstruation, pregnancy, childbirth and breastfeeding.

There are several aspects that need to be considered in the rights of workers, especially women workers namely protection women workers. The protection of women workers can be grouped into 3 (three) groups:<sup>12</sup>

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<sup>9</sup> H. M. Antho Mudzhakar, dll, 2001, *Wanita dalam Masyarakat Indonesia*, Sunan Kalijaga Press, page 189.

<sup>10</sup> Kardinah Soepradjo Roestam, 1993, *Wanita Martabat dan Pembangunan*, Jakarta: Guna Aksara, page 28

<sup>11</sup> Anonim, *Kebijakan Upah Minimum Indonesia*, Available at <https://toolsfortransmation.net/indonesia/wp-content/uploads/2017/05/Pengupahan-minimum-ILO>, Accessed January 20, 2023.

<sup>12</sup> Ratih Wulandari, “*Diskriminasi Perempuan Di Tempat Kerja*”, *Jurnal Idea Hukum*, Vol 8, Nomor 1, 2022, page 117-118.

1. Protective protection is the protection of the reproductive function for women workers, which is shown so that women workers can still carry out their reproductive functions properly in accordance with their nature in order to continue their offspring amidst their roles as housewives, wives, members of the community as well as workers
2. Non-discriminatory protection for women workers is intended to provide equal rights and opportunities for male workers and female workers to enter and pursue a career in the world of work
3. Meanwhile, corrective protection is intended to reduce or eliminate various obstacles and constraints experienced by women workers in the world of work due to gender differences or gender bias. However, it is still not optimal.

However, there are international organizations that are responsible for dealing with this, Protection of women's labor rights is mandated in ILO (International Labor Organization) Conventions and also the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Ratifying and implementing ILO Convention No. 100, ILO Convention No. 111, and CEDAW is said to be one of the important efforts to overcome wage discrimination against women workers.<sup>13</sup>

The ILO is an international organization working in the field of workers' rights, which in principle, helps member countries overcome

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<sup>13</sup> Ratih Ananda Putri, Idris, Agus Pratiwi, "Perlindungan Hak Asasi Manusia Terhadap Diskriminasi Kesempatan Mendapatkan Upah Bagi Tenaga Kerja Perempuan di Indonesia di Tinjau dari CEDAW Tahun 1979, Konvensi ILO Nomor 100 Tahun 1951, Konvensi ILO Tahun 1958", Jurnal Bina Mulia Hukum, Vol 3, Nomor 2, 2019, page 259.

existing employment problems<sup>14</sup> or we can say that ILO is an international organization whose role is to fight for justice for workers or laborers, the International Labor Organization (ILO) strives to overcome problems and fight for justice in the world of employment.<sup>15</sup>

The main objectives of the ILO are to promote rights at work, encourage decent work opportunities, improve social protection and strengthen dialogue to address issues related to the world of work.<sup>16</sup> So that efforts are needed to provide social security and worker protection in order to create a harmonious relationship in the world of work, especially for women workers who often experience acts of gender discrimination and acts of violence and harassment in the world of work<sup>17</sup>.

Apart from the ILO Convention, which regulates the rights of women workers, there is also CEDAW which universally affirms the principle of equal rights for men and women in various fields. This Convention encourages the adoption of national legislation prohibiting discrimination and the adoption of temporary special measures to promote de facto equality between men and women, including changing customary and

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<sup>14</sup> *Ibid.*

<sup>15</sup> Nuzulul Anam, *Upaya ILO Dalam Memperjuangkan Hak-Hak Buruh Pabrik di Indonesia*, Skripsi, Fakultas Ilmu Sosial dan Politik, Universitas Muhammadiyah Malang, 2022, page 10.

<sup>16</sup> Shafira Khairunnisa, Agus Pramono, Sonhaji, "Analisis Hukum Ratifikasi dan Implementasi Konvensi-Konvensi International Labour Organization (ILO) di Indonesia", *Dipenogoro Law Review*, Vol 5, Nomor 2, 2016, page 2.

<sup>17</sup> Cheryl Michelia, Agus Pramono, Sonhaji, *Op.cit.*, page 28.

cultural practices based on the inferiority or superiority of either sex or role stereotypes for women and men.<sup>18</sup>

CEDAW has an important role in making the government aware that it tends to be repressive so that it can become a vehicle for promoting women's human rights through the provisions therein.<sup>19</sup> Convention member countries are required to carry out the mandate contained in CEDAW as a rule that must be stipulated in state policy.<sup>20</sup> Understanding the essential of ILO and CEDAW as universal values mean that they do not know the boundaries of space and time; these universal values are then translated into national legal products in various countries to protect and uphold human values.<sup>21</sup>

Indonesia is one of the countries that has ratified the CEDAW Convention and ILO. Based on the 1945 Constitution stated in paragraph 4 says that the Indonesian state has the aim of promoting the general welfare and educating the nation's life, for this reason, the state has a great responsibility for the welfare of its people.<sup>22</sup> So every citizen has the right

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<sup>18</sup> Argitha Arcindy, "Kesetaraan Perempuan Disabilitas Dalam Mewujudkan Pembangunan Indonesia Berkelanjutan (SDGs) Melalui Himpunan Wanita Disabilitas Indonesia (HWDI) Wilayah Sumatra Utara Di Kota Medan", Skripsi Pendidikan Antropologi, Fakultas Ilmu Sosial, Universitas Negeri Medan, 2020, page 2.

<sup>19</sup> Rivers Tani, Flora P. Kalalo, Engelen N. Palendeng, "Tinjauan Yuridis Terhadap Hak Asasi Perempuan Menurut UU No. 39 Tahun 1999, Lex Administratum, Vol 9, Nomor 7, 2021, page 163.

<sup>20</sup> United Nation, *Convention On The Elimination of All Form Of Discrimination Against Woman*, Available at [www.un.org/womenwatch/daw/cedaw/cedaw.htm](http://www.un.org/womenwatch/daw/cedaw/cedaw.htm), Accessed January 1 2022

<sup>21</sup> *Ibid.*

<sup>22</sup> Analisa Putri, 2020, "Pemenuhan Hak Pekerja Perempuan Dalam Hukum Positif dan Hukum Islam", Skripsi Ilmu Hukum, Fakultas Syariah dan Hukum, Universitas Islam Negeri Syarif Hidayarullah, page 1.

to get interested in his life, one of the rights that every citizen must own is the right to get the opportunity to work to support his life.<sup>23</sup> In article 27, paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which reads, "Every citizen has the right to work and a life worthy of humanity".<sup>24</sup> By justice, they often meant more balanced government behaviour, an end to violence, and equal distribution of social necessities.<sup>25</sup> Based on this article, it means that every male and female citizen has the same position in law and government and is also entitled to decent work.<sup>26</sup>

When Indonesia has ratified an international agreement, Indonesia is bound by and accepts the rights and obligations arising from the agreement. Because Indonesia has ratified CEDAW, ILO Convention No. 100 and ILO Convention No. 111, it has a legal consequence that Indonesia is obliged to implement all of its principles except those reserved. Implementing CEDAW, ILO Convention No. 100, and ILO Convention No. 111 in Indonesia is to provide justice to women, namely to provide equal rights and opportunities in the field of employment.

In Indonesia, a worker, both male and female, is not only limited to doing something and then getting a wage or reward for what he does, but there are rights that a person should have when he is in a job, these rights include Wage Protection, Rest and Leave Time, Occupational Safety and

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<sup>23</sup> *Ibid.*

<sup>24</sup> Article 27 of The Constitution

<sup>25</sup> Patricia Grimshaw, Katie Holmes, and Marlyin Lake, 2001, *Women's Rights and Human Rights: International Historical Perspective*, Palgrave MacMillan, page 292.

<sup>26</sup> Analisa putri, *Loc.cit.*

Health, Workers' Social Security (Jamsostek) and others.<sup>27</sup> Imam Soepomo also emphasized that women workers should receive special health, decency and work safety treatment.<sup>28</sup> There is Labor Law No. 13 of 2013, which has regulated articles concerning the rights of women workers in the workplace. In Law No. 13 of 2013, several articles fulfil the rights of women workers regarding their reproductive organs in articles 76, 81, 82, 83, and 84. One of them is the right to breastfeed, as stipulated in Article 83 of Law no. 13 of 2003 concerning employment. Even though Law No. 11 of 2020 concerning Job Creation has been in effect and replaced several provisions in Law No. 13 of 2003, however, the Minister of Labor, Ida Fauziyah, said that the provisions for maternity and maternity leave, as well as menstruation leave, are still valid according to Law 13/2003.<sup>29</sup>

One problem that cannot be resolved regarding human rights values is gender injustice or what is known as caring. Discrimination, aka difference in action, is an unfair act, whether it is a difference in skin color, race, or gender.<sup>30</sup> Women may experience a mixture of exploitation, marginalization, powerlessness, cultural imperialism and violence.<sup>31</sup> Even though, in essence, all humans have an equal position, over time, there have been

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<sup>27</sup> *Ibid.*

<sup>28</sup> Iman Soepomo, 1983, *Hukum Perburuhan Bidang Kesehatan Kerja (Perlindungan Hukum)*, Ctk. Kelima, Jakarta: Pradnya Paramita, page 55.

<sup>29</sup> Vadhia Liyana, *Aturan Cuti Hamil dan Haid dalam Omnibus Law Cipta Kerja*, Available at <https://finance.detik.com/berita-ekonomi-bisnis/d-5206224/aturan-cuti-hamil-dan-haid-dalam-omnibus-law-cipta-kerja>, Accessed May 3, 2023

<sup>30</sup> Halimatus Sakdiyah, 2018, "*Diskriminasi Gender Dalam Film Pink*", Skripsi Ilmu Komunikasi, Fakultas Dakwah dan Komunikasi, Universitas Islam Negeri Sunan Ampel Surabaya, page 2.

<sup>31</sup> Iris Marion Young, 1990, "*Justice and the Politics of Difference*", Princenton University Press.

many changes in roles and status between women and men, resulting in habits. Then the impact of inequality for one sex. So that issues or cases of gender problems experienced by women worker become a central issue in the field of employment in Indonesia because something is formed that occurs in the stigma of society and is then constructed in terms of social or cultural behavior that exists in society.<sup>32</sup>

With the existing problems, it cannot be denied that there are still several cases of discrimination experienced by women workers in Indonesia as experienced by a female worker in Indonesia, Elitha Tri Novianty, works for an ice cream manufacturing company, PT. Alpen Food Industry (AFI) or Aice, who has endometriosis, has tried to apply for a division transfer because of her illness which cannot lift heavy loads, but the company threatens to stop her from the company, so Elitha has no other choice but to continue working which causes her to bleed so she has to do Surgical curettage to remove the uterus, Elitha is just one of the women workers whose rights are neglected by Aice.<sup>33</sup> Sarinah, Spokesperson for the Populist Democratic Trade Union Federation (F-SEDAR), which represents the Aice trade union, stated that since 2019 until now there had been 15

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<sup>32</sup> Hartika Abrianti, "Perempuan dan Karir: Perbandingan Kesenjangan Upah Gender di Indonesia dengan Negara-Negara di Eropa (Studi Kasus: Finlandia, Inggris Prancis dan Jerman)" *Jurnal Hawa*, Vol 2, Nomor 2, December 2020, page 192-193.

<sup>33</sup> Aisha Amelia Y, Ika Krismantari, dan Nashya Tamara, *Kasus Aice: dilema buruh perempuan di Indonesia dan pentingnya kesetaraan gender di lingkungan kerja*, <https://theconversation.com/kasus-aice-dilema-buruh-perempuan-di-indonesia-dan-pentingnya-kesetaraan-gender-di-lingkungan-kerja-133010>, Accessed April 29, 2023



miscarriages and six cases of babies born in a lifeless condition experienced by Aice women workers.<sup>34</sup>

In the Cakung National Narcotics Agency case, Vivi Widyawati, a coordinator of a survey researcher held for five months, studied 773 respondents from 45 BKN factories.<sup>35</sup> "It was found that 50 percent of the respondents expressed fear or worry when they found out they were pregnant. In fact, 4 out of 25 pregnant people hid their pregnancy," said Vivi in her presentation at the LBH Jakarta office, Jalan Diponegoro, Central Jakarta, Tuesday ( 19/12). Vivi explained that the factors why female workers are worried and afraid when they find out they are pregnant are the work environment that is not friendly to pregnant women, the overtime obligation for pregnant women is the same as those who are not pregnant, and the limited facilities for breastfeeding mothers so that these conditions are apprehensive, said Vivi, finally resulted in 7 workers who suffered miscarriages while working. Ironically, 3 out of 7 workers who miscarry do not get leave.<sup>36</sup>

In addition, cases of sexual harassment were experienced by women workers in oil palm plantations because of the heavy burden because of discrimination, physical violence, and sexual violence, so many of these

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<sup>34</sup> *Ibid*

<sup>35</sup> Nur Khafifah, *Survei: 50 Persen Buruh Wanita di KBN Cakung Takut Saat Hamil*, <https://kumparan.com/kumparannews/survei-50-persen-buruh-wanita-di-kbn-cakung-takut-diketahui-hamil/full>, Accessed April 29 2023

<sup>36</sup> *Ibid*

women experienced exploitation in the palm oil industry.<sup>37</sup> "He said, if you don't love your body, I'll cut your throat with this axe. Opened all my clothes. He pulled again, he put me to sleep. I just spit on me." That's the story of women workers on oil palm plantations who are victims of rape in the VOA video in *Stories of Rape, Exploitation of Women in Oil Palm Plantations*.<sup>38</sup>

A women worker does not obtain the right to breastfeed. Other information about workers says that on average many companies do not provide lactation rooms, so women workers who are breastfeeding are forced to express their milk in the toilet and throw it away. It is tough to find data on how many companies provide a room. Lactation and permitting for their workers to breastfeed or express milk on working days and working hours because the company is not willing to provide information openly.<sup>39</sup> When there is a company that is willing to provide a lactation room, but it is difficult for workers to access it, it is caused by the fact that the lactation room is far from the production or workspace, permission is not given from the boss, and there is a fear of a backlog of work because there is no one to replace when left. It seems that the company has implemented the regulations, but the implementation is not adapted to the needs and situations in the workplace environment.<sup>40</sup>

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<sup>37</sup> Lusia Arumingtyas, *Kondisi Miris Buruh Perempuan di Kebun Sawit*, <https://www.mongabay.co.id/2020/12/22/kondisi-miris-buruh-perempuan-di-kebun-sawit/>, Accessed April 29, 2023.

<sup>38</sup> *Ibid*

<sup>39</sup> Tiasri Wiandani, *Cerita Buruh Perempuan Tentang Ruang Laktasi*, <https://turc.or.id/2018/07/18/cerita-buruh-perempuan-bagian-tentang-ruang-laktasi/>, Accessed April 29, 2023

<sup>40</sup> *Ibid*

## **B. Research Questions**

Based on the description of the background of the problems above, the problems can be formulated as follows:

1. How does the convention on the elimination of all forms of discrimination against women (CEDAW) can protect discrimination against women worker?
2. How does CEDAW influence laws in Indonesia regarding the reproductive rights for women worker?

## **C. Research Objectives**

As for the purpose of this research is:

1. To know how the convention on the elimination of all forms of discrimination against women (CEDAW) provide women worker rights.
2. To know how the convention on the elimination of all forms of discrimination against women (CEDAW) influence Indonesian's Law to protect the rights of Women Workers in Indonesia.

## **D. Research Benefits**

The result of this study are expected to have the following uses:

1. Theoretically benefit

This research can be useful in providing input as well as adding to the body of knowledge and literature in the academic world, especially on matters related to international law, especially for International Law Review on the Protection of Women Worker in the Case of Analyzing Women Rights According to the CEDAW Convention.

In addition, it can be used as material for further study to produce scientific concepts that can contribute to the development of law in Indonesia.

## 2. Practical Use

This research is expected to have a value that is useful for the benefit of law enforcement and becomes a reference to be used as a reference for other research.

## **E. Research Originality**

The research conducted in the preparation of the thesis entitled "International Law Review on the Protection of Women Worker in the Case of Analyzing Women Rights According to the CEDAW Convention" was originally carried out by the authors based on legal issues that developed in society and carried out various approaches in analyzing legal issues raised in this study.

As for some of the previous thesis which became a comparison of research that the author can put forward as follows:

1. Muhammad Anugrah Firmansyah, Faculty of Law, University of Pasundan, in 2019 with the title "Konsekuensi Hukum Indonesia sebagai Peserta Konvensi 1979 Concerning the Elimination of All Forms of Discrimination Against Women (CEDAW) dalam Perlindungan Hak-Hak Pekerja Perempuan dari Diskriminasi Gender". The formulation of the problems in this study are: (1)

What are the forms of regulation and principles in the Convention on the Elimination of Discrimination Against Women (CEDAW) in protecting the rights of women workers? (2) How is the 1979 Convention on the Elimination of Discrimination Against Women (CEDAW) implemented in Indonesian legislation? (3) What is the solution to eliminate gender discrimination against women workers in Indonesia? This research focuses on the implementation and solutions of gender discrimination against women workers.

2. Bagus Raditya, Faculty of Law, Sebelas Maret University, with the title "Tinjauan Yuridis Perlindungan Hak-Hak Pekerja Perempuan di Pt Petrokimia Gresik". The problem in this study is: (1) How to protect the rights of women workers at PT Petrokimia Gresik. (2) What are the constraints in implementing the protection of the rights of women workers at PT Petrikimia Gresik. In this study, the focus is on protecting the rights of women workers and the obstacles to implementing the protection of women workers at PT Petrikkimia Gresik.
3. Maya Nur Indah Sari, Faculty of Law Muhammadiyah University of North Sumatra Medan with the title "Aspek Hukum Internasional dalam Pemenuhan Hak untuk Mendapatkan Remunerasi yang Sama bagi Pekerja Perempuan dan Pelaksanaannya di Indonesia". The problem in this study is: (1) how is the regulation of international

law the right to receive equal wages for women workers. (2) How is the implementation of legal arrangements for the right to receive equal wages for women workers in Indonesia. (3) What are the obstacles to fulfilling the right to receive equal wages for women workers?.

## **F. Research Method**

### **1. Type of Research**

The type of research that the authors used is normative legal research. Normative research is conceptualized as what has been written in a statutory regulation or law and conceptualized as a rule or norm considered appropriate.<sup>41</sup> The distinctive feature of this normative research is that the data source is only in the form of secondary legal material.<sup>42</sup>

### **2. Type and Source**

#### **2.1. Type of Legal Material**

The types of legal materials used by the author in this proposal are divided into 3, namely:

- 1) Primary legal materials are legal materials obtained directly from the source. Generally, primary legal materials are binding (norms, Basic Regulations, Legislation, customary law, or Jurisprudence).<sup>43</sup>

In this research, the primary legal materials are:

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<sup>41</sup> Amiruddin and Zainal Azikin, 2014, *Pengantar Metode Penelitian Hukum*, Rajawali Pers, Jakarta, hlm 118.

<sup>42</sup> Ronny Hanitjo Soemitro, 1984, *Masalah-Masalah Sosiologi Hukum*, Sinar Baru, Bandung, page 110. See also Soerjono Soekanto, 1984, *Pengantar Penelitian Hukum*, UI Pers, Jakarta, page 52

<sup>43</sup> Amiruddin and Zainal Asikin, *Op. cit*, page 31.

- a). Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
  - b). Law number 13 of 2003 concerning Employment
- 2) Secondary legal materials, namely legal materials, which include official documents, books, research results in the form of reports, and so on. In general, secondary legal materials have the following characteristics:<sup>44</sup>
- a) It can be used immediately and is always ready to be made;
  - b) Not limited by time and place;
  - c) The content and form are the work of previous researchers so that new researchers do not have supervision over the collection, processing, analysis and construction of data;
- 3) Tertiary materials, which can also be referred to as non-legal materials, can provide instructions and explanations for primary and secondary legal materials.<sup>45</sup>

## 2.2. Source of Legal Material

Sources of legal materials used by the author include:<sup>46</sup>

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<sup>44</sup> Soejono Soekanto, *Op. cit*, page 12

<sup>45</sup> Joenadi Efendi and Jhonny Ibrahim, 2016, *Metode Penelitian Hukum Normatif dan Empiris*, Kencana, Jakarta, page 298.

<sup>46</sup> *Ibid.*

- 1) Conventions - International Conventions and other relevant legal instruments.
- 2) Related international law books;
- 3) Scientific journals and literature - literature and other sources of information both in hard copy and a soft copy obtained either directly or through internet search results relevant to the research topic.

### **3. Legal Material Collection Techniques**

In this study, the authors collected legal materials using literature research techniques.<sup>47</sup> This collection technique is used to obtain secondary materials and other information relevant to the research to be carried out.<sup>48</sup>

### **4. Legal Material Analysis Techniques**

The research conducted by the author is a normative study in which the source of legal material only consists of primary legal material, secondary legal material, and tertiary material so that the method of processing and analyzing legal material used is an interpretation technique (Hermeneutics),<sup>49</sup> which is where interpretation or hermeneutic is defined as a process of changing something or a situation of ignorance to understanding.<sup>50</sup>

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<sup>47</sup> *Ibid.*

<sup>48</sup> *Ibid.*

<sup>49</sup> Amiruddin and Zainal Asikin, *Op.cit*, page 163

<sup>50</sup> E Soemaryono, 1993, *Hermeuntik Sebuah Metode Filsafat*, Penerbit Kanisius, Yogyakarta, page 24.



## **CHAPTER II**

### **THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW) PROVIDE WOMEN WORKER RIGHTS**

#### **A. History of CEDAW**

##### **1. CEDAW Background**

Discrimination occurs against women worldwide, the United Nations established the Commission on the Status of Women, which was the pioneer of the Convention on the Elimination of Discrimination against Women. In particular, 1947, the United Nations formed a Commission on the position of women, which became the forerunner to the drafting and birth of the women's Convention of the United Nations. On December 18, 1979, the United Nations ratified the Convention on eliminating all forms of discrimination against women, known as CEDAW, which stands for The Convention on the Elimination of all Forms of Discrimination against Women.<sup>51</sup> CEDAW is a convention adopted by the United Nations in 1979, which entered into force in 1981 for every ratifying country.<sup>52</sup> CEDAW and ICEDAW (International Convention on Elimination of All Forms of Discrimination Against Women) are international human rights agreements

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<sup>51</sup> Anonim, <https://digilib.uinsa.ac.id/669/4/Bab%201.pdf>, page 2

<sup>52</sup> IPU, 2003, *The Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol*, Handbook for Parliamentarians, United Nations, Switzerland, page 9.

that specifically regulate women's rights.<sup>53</sup> This convention can also be analogous to the International Bill of Rights. It also establishes equality between women and men in exercising their rights in various aspects of life.<sup>54</sup> Human rights treaties in general are notably ambitious, but CEDAW stands out among them.<sup>55</sup> Most human rights treaties enjoin governments to respect rights, but CEDAW goes further: It mandates change in the public sphere, the private sphere, and the minds of individuals.<sup>56</sup> Embracing all aspects of women's lives—political, public, and diplomatic; Committee. Embracing all aspects of women's lives—political, public, and diplomatic; economic, employment, and rural; educational; health; marriage and family; and economic, employment, and rural; educational; health; marriage and family; and protection against violence, including domestic violence<sup>57</sup>—CEDAW has imposed an obligation on states parties to ensure substantive equality for women.<sup>58</sup>

This is the result of an initiative taken by the United States Commission on the Status of women, a body created in 1974 by the United

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<sup>53</sup> Beverly Gabrielle Sanger, "Perlindungan Hak Politik Perempuan Sebagai Hak Asasi Manusia dan Pengaturannya Dalam Konvensi Internasional", *Lex Et Societatis* Vol. VII, Number 3, 2019, page 163.

<sup>54</sup> Enik Setyowati, "Konvensi Internasional CEDAW: Kiprah PBB dalam Menghapus Diskriminasi Wanita & Dukungan Indonesia Melalui Ratifikasi", *Jurnal Artefak*, Vol 8, Number 2, 2021, page 130.

<sup>55</sup> Neil A. Englehart and Mellisa K. Miller, "The CEDAW Effect: International Law's Impact on Women's Right", *Journal of Human Rights*, 2014, page 23.

<sup>56</sup> *Ibid*

<sup>57</sup> Frances Raday, "Gender and Democratic Citizenship: The Impact of CEDAW", *International Journal of Constitutional Law*, Volume 10, Issue 2, 2012, page 512.

<sup>58</sup> *Ibid*

Nations to consider and develop policies that will improve the position of women.<sup>59</sup> This convention began on December 3, 1981, and was ratified by 20 countries and, up to March 18, 2005, had been ratified by 180 countries. Today, with 187 states parties, it is one of the most highly ratified international human rights treaties.<sup>60</sup>

CEDAW is a comprehensive treaty that addresses various aspects of women's rights and aims to eliminate discrimination against women in all its forms. It sets out a framework for promoting gender equality and ensuring women's enjoyment of their human rights. The convention recognizes that discrimination against women is a violation of their human rights and hinders their full and equal participation in society.

CEDAW consists of a preamble and 30 articles that cover a wide range of women's rights issues. The convention highlights key principles such as non-discrimination, equality, and the importance of empowering women. It calls on states parties to take a range of measures to eliminate discrimination and promote gender equality.

The convention recognizes that discrimination against women can take many forms, including in the political, economic, social, cultural, and civil spheres. It addresses issues such as access to education, employment, healthcare, and participation in public life. CEDAW also addresses violence

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<sup>59</sup> [http://eprints.walisongo.ac.id/id/eprint/1375/4/072111002\\_Bab3.pdf](http://eprints.walisongo.ac.id/id/eprint/1375/4/072111002_Bab3.pdf), page 39.

<sup>60</sup> Office of the High Commissioner For Human Rights, <https://www.ohchr.org/en/treaty-bodies/cedaw>

against women, including domestic violence, sexual assault, and harmful practices.

CEDAW requires states parties to take legislative, administrative, and other measures to ensure the full realization of women's rights. It calls for the amendment or repeal of discriminatory laws and the adoption of laws that protect women's rights. The convention emphasizes the importance of changing social norms and stereotypes that perpetuate discrimination against women.

States parties are required to submit periodic reports on the measures they have taken to implement the provisions of CEDAW. These reports are reviewed by the CEDAW Committee, a body of experts who monitor the implementation of the convention and provide recommendations to states parties.

CEDAW has played a significant role in advancing women's rights globally. It has been instrumental in shaping national laws, policies, and programs to promote gender equality. The convention has also influenced judicial decisions and served as a powerful advocacy tool for women's rights activists and organizations.

In conclusion, CEDAW is a vital international treaty that aims to eliminate discrimination against women and promote gender equality. It sets out a comprehensive framework for addressing various dimensions of women's rights and provides guidance to states parties in their efforts to ensure the full realization of women's human rights.

These principles are then expected by the countries that have ratified them to become a cornerstone in making policies that consider the position of women so that they do not experience discrimination.<sup>61</sup> In the future, countries that have ratified this convention will likely use these principles as the basis for forming policies that pay attention to the position of women so that discrimination does not occur

## 2. CEDAW Principles

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is an international human rights treaty that aims to promote gender equality and eliminate discrimination against women. It sets out a comprehensive framework for addressing gender-based discrimination and ensuring women's rights in various spheres of life. The convention is based on several key principles, which are explained below. Principles in CEDAW, which contains 3 (three) main principles namely:<sup>62</sup>

- a. First, the Substantive Equality Principle, this principle is also known as a corrective approach, namely an approach that does not only focus on equal treatment before the law but also includes equality in the sense of de jure the actual or real impact of the law.<sup>63</sup> The essence of the principle of equality in

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<sup>61</sup> UN Women and Asia Pacific, *CEDAW & Human Rights*, on the <https://asiapacific.unwomen.org/en/focus-areas/cedaw-human-rights>, accessed January 22, 2023.

<sup>62</sup> Ade Yuliany Sihan and Fitriani, 2021, "*Kebijakan Pemerintah dalam Implementasi Convention on the Elimination of All Forms Discrimination Against Women (CEDAW) Atas Hak Perempuan di Indonesia*", Jurnal Darma Agung, Vol 29, Number 2, 2021, page 196.

<sup>63</sup> Rini Maryam, "*Menerjemahkan Konvensi Penghapusan Segala Bentuk Diskriminasi Terhadap Perempuan (CEDAW) Kedalam Peraturan Perundang-undangan (Translation of Conention on The Elimination of All Forms of Discrimination Against Women (CEDAW)*

opportunity is to prove to them that they have very minimal opportunities to achieve opportunities for welfare, income and authority, so that there is a need to provide exclusive protection.<sup>64</sup> This is intended so that if women want to obtain decisions that lead to substantive policies, then they should make efforts through policies, actions, and special treatment, this can certainly be a concrete step to eliminate the occurrence of a process of discrimination or distinction between men men and women.<sup>65</sup>

- b. Second, the Principle of Non-Discrimination, where there are no intentional or unintentional differences based on gender that cause a reduction in human rights. This principle of non-discrimination is urgently needed to emphasize the elimination of the domestic-public contradiction and agree that the roots of discriminatory acts that have occurred to women so far have originated from the view that has been rooted in society that domestic work is always identified with women's work, in general, has no economic value and is commonly categorized as a closed area, so that in this area the state does not need to intervene due to patriarchal culture.<sup>66</sup> So that this principle itself

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*Into The Regulation of Legislation)*", Jurnal Legislasi Indonesia, Vol 9, Number 1, 2022, page 101.

<sup>64</sup> Enik Setyowati, *Op.cit*, page 132

<sup>65</sup> *Ibid*, page 133

<sup>66</sup> *Ibid*, page 131

was adopted from the International CEDAW Convention, which recognizes that women are in an unequal position, so they need to be treated differently to obtain fair and equal final results and benefits (Sagala & Rozana, 2007).

- c. Third, the Principle of State Obligations. According to Achi Sudiarti Luhulima, this principle includes matters including guaranteeing women's rights through laws and policies and guaranteeing the results, guaranteeing practical implementation and rights through special action steps or temporary regulations, creating conducive conditions to increase women's opportunities and access to existing opportunities and enjoy equal/fair benefits from the results of using that opportunity, the State not only guarantees but also realizes women rights.

These principles provide a foundation for governments, civil society organizations, and individuals to work towards achieving gender equality and women's empowerment. By adhering to these principles and implementing the obligations outlined in CEDAW, countries can make significant progress in eliminating discrimination against women and ensuring their full and equal participation in society.

### 3. CEDAW Ratification

Conventions are customary law in a constitutional context that lives in a state or executive institution.<sup>67</sup> Conventions can provide direction regarding procedures, powers and obligations in the absence of written laws<sup>68</sup>

In International Agreements, international conventions and naming conventions are also terms that are commonly used in the Indonesian language to refer to the name of a multilateral international agreement, whether initiated by states or by international institutions or organizations. Conventions are not related to high-level policies (high policy).<sup>69</sup>

Ratification or “approval” is regulated in Article 2(1) b of the 1969 Vienna Convention on International Treaties.<sup>70</sup> Furthermore, according to Article 14 of the same convention, ratification is a way to bind oneself to an agreement and is usually always preceded by signing.<sup>71</sup> Member countries that ratify the convention carry out two tasks at once: an official commitment to implement the rules of the convention and a willingness to accept internationally supervised implementation measures.<sup>72</sup>

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<sup>67</sup> Morena T. Sumolang, Makalah: “*Konvensi dalam Perjanjian Internasional*”, Fakultas Hukum Universitas Sam Ratulangi, Manado, 2016, page 2.

<sup>68</sup> Anonim, *Pengertian Konvensi: Apa itu Konvensi?*, Available at <https://www.pengertianahli.com/2014/12/pengertian-konvensi-apa-itu-konvensi.html#> Accessed by February 27, 2023

<sup>69</sup> Morena T. Sumolang, *Loc.cit.*

<sup>70</sup> Ratih Ananda Putri, Idris, Agus Pratiwi, *Op.cit.*, page 263.

<sup>71</sup> *Ibid.*

<sup>72</sup> International Labour Organization, “*ILO Convention*”, <https://www.ilo.org/global/%20standards/introduction-to-international-labour%20standards/%20conventions-and-recommendations/lang--en/index.htm>, accessed January 23, 2023.



Ratification is the formal act by which a country indicates its consent to be legally bound by the terms and obligations of an international treaty. When a country ratifies CEDAW, it agrees to implement the provisions of the convention within its national laws, policies, and practices. The process typically involves a country's legislative body or executive authority approving the treaty, followed by depositing the instrument of ratification with the United Nations.

Ratifying CEDAW demonstrates a country's commitment to promoting gender equality and women's rights. It signifies that the state recognizes the importance of addressing discrimination against women and is willing to take active measures to eliminate it. Ratification also reflects a country's willingness to be held accountable for its progress in implementing the provisions of the convention.

Once a country ratifies CEDAW, it becomes a state party to the convention and assumes certain obligations. These obligations include enacting or amending domestic laws to eliminate discriminatory practices, establishing mechanisms for monitoring and reporting on progress, and promoting gender equality in various areas of life, such as education, employment, health, and political participation.

Ratification of CEDAW also opens avenues for international cooperation and support. Countries that have ratified the convention can benefit from technical assistance, capacity building, and sharing of best practices through engagement with international organizations and other

states parties. It enables countries to learn from each other's experiences and collaborate in advancing women's rights globally.

The ratification process is often accompanied by efforts to align national laws and policies with the provisions of CEDAW. This may involve reviewing existing legislation, developing gender-responsive policies, and establishing mechanisms for monitoring and enforcement. Ratification can act as a catalyst for legal and social reforms that aim to promote gender equality and eliminate discrimination against women.

At least two crucial consequences must be observed before ratifying an international treaty<sup>73</sup>. First, Indonesia must translate or transform obligations in international agreements into national law.<sup>74</sup> The goal is not to conflict with national law with international agreements. Second, the consequence must be Indonesia's obligation to provide a report to an institution specified in an international agreement.<sup>75</sup>

From the point of view of international law, ratification is a statement of "consent to be bound by a treaty," which is "eenmalig" (one time only/final), and does not see how constitutional law regulates this statement.<sup>76</sup> In other words, when Indonesia has stated its agreement to be bound by this convention through the instrument of ratification, at that time, this convention also applies (entry into force) for Indonesia,<sup>77</sup> therefore,

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<sup>73</sup> Internasional Dalam Sistem Hukum di Indonesia (Cooperation with the Foreign Ministry of UNPAD), November 29, 2008.

<sup>74</sup> Ratih Ananda Putri, Idris, Agus Pratiwi, *Op.cit*, page 264

<sup>75</sup> *Ibid.*

<sup>76</sup> *Ibid.*

<sup>77</sup> Damos, *Op.cit*, page 135

since Indonesia has stated its agreement to be bound by this convention through the instrument of ratification of CEDAW, ILO Convention No. 100 and No. 111, then at the same time, the convention applies to Indonesia.<sup>78</sup>

### **B. Women's Rights in CEDAW**

Women's rights in the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) are addressed through a comprehensive framework that aims to promote gender equality and eliminate discrimination against women. The convention specifically highlights several key areas of women's rights. Articles in CEDAW are divided into six sections, namely:

1. Part 1 (Articles 1-6) contains the objectives of establishing CEDAW itself. Every country that has ratified CEDAW must comply with and implement the principles of CEDAW, namely the principle of equality, the principle of non-discrimination, and the principle of state obligation. Participating countries that have ratified CEDAW are obliged to make regulations regarding eliminating discrimination in all fields so that women can enjoy their rights and freedoms on an equal basis.
2. Part 2 (articles 7-9) contains men's and women's equality in civil and political rights. Namely the right to be elected and vote, hold office, and participate in the country's social and political life.

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<sup>78</sup> Ratih Ananda Putri, Idris, Agus Pratiwi, *Op.cit*, page 265

3. Part 3 (articles 10-14) contains the equality of men and women in economic, social, and cultural terms. This includes the right to education, health, and enjoyment of adequate living conditions without gaps.

4. Part 4 (15-16) contains equal rights before the law and equal rights in marriage relations, such as making choices without being forced by anyone and other marriage rights that are free and responsible.

5. Part 5 (17-22) explains the procedure for selecting the CEDAW committee and the functions of the CEDAW committee. Apart from that, it explains the progress reports of participating countries regarding the implementation of the CEDAW.

6. Part 6 (23-30) contains the obligation of participating countries to strive for the realization of rights recognized by CEDAW

We can conclude that based on part 3 (articles 10-14) which is regulated protection for women workers without any discrimination in wages, equal treatment, and special protection for women workers because of their reproductive factors is representative tools and the reason why and how CEDAW provides women rights

CEDAW protects for women workers to prevent discriminatory practices and ensure that women get their rights, both direct economic rights such as decent wages according to the workers' living needs and

career heights, as well as indirect economic rights such as menstrual leave, childbirth and breastfeeding.<sup>79</sup>

There are several impacts resulting from the implementation of CEDAW itself on the countries that implement it. Many countries, including Pakistan, ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1996. This is because Pakistan is a country that officially became a member of the United Nations on September 30, 1947, which was a month after gaining its independence from the United Kingdom.<sup>80</sup> This action can be said as a form of participation and action as the initial effort of the Pakistani state to be more serious in eliminating all forms of treatment and enforcement of women's human rights in their country.<sup>81</sup>

Several national laws passed by parliament align with international conventions ratified by Pakistan to protect women's rights in Pakistan:<sup>82</sup>

1. The Anti-Terrorism Act (1997), in this law, apart from discussing and regulating anti-terrorism acts, it also regulates acts of rape committed by a group of people, acts of child abuse, or robbery accompanied by acts of rape (Sultan, 2014).

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<sup>79</sup> Mulyani Djakarta, "Perlindungan Hukum Bagi Pekerja Wanita Untuk Memperoleh Hak-Hak Pekerja Dikaitkan Dengan Kesehatan Produksi" Vol.3, No.1, 2018, page 17.

<sup>80</sup> Okky Sonia Ayure, 2019, *Penanganan Pelanggaran Hak Asasi Perempuan di Pakistan Pasca Ratifikasi Convention on The Elimination of All Forms of Discrimination Against Women (CEDAW) Pada Tahun 2009-2017 (Studi Kasus : Honour Killing)*, Skripsi Hubungan Internasional, Fakultas Ilmu Sosial dan Ilmu Politik, Universitas Muhammadiyah Yogyakarta.

<sup>81</sup> *Ibid*

<sup>82</sup> Sultan N. A, 2014, *Honour Crimes in Pakistan: Unveiling Reality and Perception*, Community Appraisal & Motivation Programme (CAMP)

2. In 2004, the Government of Pakistan even stated that Honor Killing was illegal. Furthermore, the Government of Pakistan made amendments to the Criminal Law Act, which changed its name to the Criminal Law (Amendment) Act 2004 or commonly referred to as the Honor Killing Act. This law officially recognizes the act of killing in the name of honor as an act and the perpetrator must be punished. According to this law, the feature of honor killing cases is that the victim's heirs forgive the perpetrator or killer, then the police are allowed to bring this case to sue the family before the court. But the victim's heirs can easily forgive the killer in the name of God. Later the Criminal Code (Amendment) Act amended Sections 299, 302, 305, 308, 310, 311, 316, 324, 337, 338 of the Pakistan Penal Code/Pakistan Penal Code (PPC) and Sections 345, 401 of the Criminal Procedure Code /Criminal Procedure Code (CrPC) to ensure more effective prosecution of cases of so-called honor killings. This law also includes a new section, namely 310A. This law was promulgated in 2004 and then enacted in 2005 (Criminal Law Amendment, 2004).
3. Furthermore, in 2007, Pakistan amended a law called Protection of Women (Criminal Laws Amendment), 2007. The Preamble to the Law states that it is necessary to provide assistance and protection for women from abuse of the law and to prevent their exploitation (UNCHR, 2007). This law also removes some provisions from the

previous law, namely the Hudood Ordinance in sexual crimes. It stipulates it under the Pakistan Penal Code (PPC), which inevitably changes several provisions in the Hudood Ordinance, inserts and deletes several parts and transfers some offense to PPC. For example removing the crime of rape from the Hudood Ordinance and including it in the criminal code. Previously, in the Hudood Ordinance, women who accused a man of rape would find it difficult to get supporting evidence most women who reported this would end up in vain. That's why this law was amended because violations of adultery cases continue to be discriminated against. The amended law stipulates that courts will investigate complaints of this kind. In addition, the death penalty and corporal punishment for sexual relations outside of marriage have been abolished because they violate human rights (Sultan, 2014).

4. Furthermore, the Law on The Protection Against Harassment at the Workplace Act (2010) covers acts of harassment, both in the form of verbal and physical behavior that degrades the dignity of a women. The workplace is defined as harassment that occurs frequently (Sultan, 2014).
5. The Criminal Law (Amendment) Act (2010), this law was amended again from before, namely in 2004. This law added a new definition of sexual harassment, which consists of harassment at work and harassment in general. In contrast to The Protection Against

Harassment at the Workplace Act (2010), The Criminal Law (Amendment) Act (2010) allows criminal prosecution for acts of harassment (Sultan, 2014).

6. Furthermore, this law was also amended for the second time and changed its name to The Criminal Law (Second Amendment) Act (2011). This law introduced amendments to include penalties for the crime of acid burning. Section 332 was amended, and words such as 'disable,' 'disfigure,' and 'defaces' were added due to the effects of acid crime. Then, in section 336A, it is added again regarding injuries caused by corrosive substances, defined as dangerous substances that are ingested, inhaled, or come into contact with the human body (Sultan, 2014).
7. The Prevention of Anti-Women Practices (Criminal Law Amendment) Act (2011), this law contains penalties for anyone who forces women to marry. The offender will be given a prison sentence and a fine of five hundred thousand rupees. This law also prohibits further violations of deprivation of women, including property or inheritance owned (Sultan, 2014).

In case of Pakistan, UN Women seeks to reduce violence against women and fulfill women's rights by implementing a series of programs such as women's empowerment, education for women and several other



programs for all UN member countries.<sup>83</sup> In its implementation, every effort made by UN Women to reduce the level of violence against women is always guided by the 1993 Convention on The Elimination of All Forms of Discrimination Against Women (CEDAW).<sup>84</sup> An example of CEDAW's influence in Pakistan is that after the Pakistani government ratified CEDAW in March 1996, the Ministry of Women Development and the National Commission on the Status of Women (NCSW) was formed in 2000. This aims to provide opinions or views that women should have.

As for the next country is India, since the inauguration of UN Women in India, in general, the task of UN Women in India has been to strengthen women's rights by working together between women and men, feminists or women's movements, government, local authorities, and civil society in order to create a national strategy In India, UN Women seeks to build welfare for women and girls to exercise their rights as equal citizens in India through programs, policies and laws that are pro-women.<sup>85</sup> An example of an amended statutory law is the labor law which is seen as failing to specify which facilities are required for women working in shops, including the right to sit therefore the State Government provided Kerala said, on July 4, they

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<sup>83</sup> UNAIDS, 2015, UN Women *“United Nations Entity For Gender Equality and The Empowerment of Women”*, page 2.

<sup>84</sup> UN Women, *“Convention on The Elimination of All Forms of Discrimination Against Women”*, Available at <http://www.un.org/womenwatch/daw/cedaw/> Accessed April 30, 2023.

<sup>85</sup> Noviyanti, *“Peran UN Women dan Pemerintah India Dalam Mengatasi Kekerasan Seksual di India Periode 2015-2017”*, Skripsi Hubungan Internasional, Fakultas Ilmu Sosial dan Politik, Universitas Islam Negeri Syarif Hidayatullah Jakarta, page 40.

will amend the relevant labor laws so that every worker has the right to be able to "sit".<sup>86</sup>

UN Women also focuses on six priority areas, namely:<sup>87</sup>

1. End violence against women and girls which is a gross violation of human rights.

2. Promote women's leadership and participation in politics and decision-making

3. Planning and national violations. UN Women works closely with economists, government officials, banking and financial planning agencies to ensure national policies and budgets meet the needs of women in every state of India

4. Economic empowerment. UN Women fights for women's rights to participate more in business economic activities, agriculture or nursing work so that women are not exploited, discriminated against and avoid poverty.

5. Peace and security for women.

6. Migration. UN Women is working to strengthen gender-responsive migration of female domestic workers from India to the Gulf Cooperation Council (GCC) countries by increasing the risks of unsafe and irregular migration by informing prospective safe and legal migrant workersce gender equality in line with national and international priorities.

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<sup>86</sup> Humanica Sinaga, *UU Tenaga Kerja Diubah, Buruh Perempuan di India Dapat Hak Duduk*, available at <https://www.pikiran-rakyat.com/internasional/pr-01299353/uu-tenaga-kerja-diubah-buruh-perempuan-india-dapat-hak-duduk-427488?page=2>, Accessed Juni 14, 2023.

<sup>87</sup> *Ibid*

In addition, Japan is also one of the countries that ratified CEDAW. It is known that the amount of gender discrimination in Japan then The Japanese Government making a law to reduce this gap in 1985 in the context of Japan having ratified the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), namely by prohibiting companies from carrying out acts of discrimination (Still a struggle for working women, 2016.<sup>88</sup> In 1999, a law was formed called The Basic Law, namely by prohibiting this discrimination, both directly and indirectly, such as promotions and unfair treatment of situations of pregnancy, childbirth and marriage.<sup>89</sup>

Apart from these countries, there are also several countries that have not ratified CEDAW such as The current legal system in Sudan is a strict application of Sharia law, which also limits women's rights in various ways. This nature of law permeates Sudanese culture. Apart from discrimination in education, a cultural area of Sudan closely related to Sharia, it is difficult to suppress principles of violating women's rights, such as female genital mutilation, honor killings, and other abuses against women.<sup>90</sup> Women in Sudan are expected to comply with norms, culture, and customs, and

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<sup>88</sup> Afifah Sausan Mizhari, *Analisis Internasionalisasi Norma Kesetaraan Gender Periode 1990-2017 di Jepang*, Skripsi Hubungan Internasional, Fakultas Psikologi dan Ilmu Sosial Budaya, Universitas Islam Indonesia Yogyakarta. 2018. Page 3-4

<sup>89</sup> *Ibid*

<sup>90</sup>Enno Nuri Al Sarah, *Tantangan Universitas Hak Asasi Manusia oleh Norma Domestik: Kebijakan Sudan Tidak Meratifikasi Convention on The Elimination of All Forms of Discrimination Against Women*, Skripsi Hubungan Internasional, Fakultas Ilmu Sosial dan Ilmu Politik, Universitas Diponegoro, 2020.

deviations from this will be subject to punishment because some of its obligations have been regulated in national law.<sup>91</sup>

The impact of Sudan's strong patriarchal culture has led to the marginalization of women, where women cannot explore more deeply about their potential, and they must be limited in their role and movement in social life.

Another country that has not ratified CEDAW is Iran. As a result the level of women's political representation is a pressing problem according to the Gender Gap Index, the region has lowest score for women's political empowerment Iran's score is a very low 3.6 percent.<sup>92</sup> Since the 1979 revolution in Iran, institutions such as the Guardian Council, which is responsible for verifying the eligibility of candidates for national elections and ratifying legislation, has negatively affected the representation of women in high political positions.<sup>93</sup> Though the new Iranian regime was invited to sign CEDAW, it was rejected because by the Guardian Council since it was deemed opposed to Islamic teachings.<sup>94</sup>

The fact that Iranian women cannot participate in politics is because Iranian women lack political knowledge, understanding, and skills. Therefore women in Iran need to be made aware of the importance of

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<sup>91</sup> *Ibid*

<sup>92</sup> Mahnaz Vadati, *Women's Political Empowerment and CEDAW: The Case of Iran and Turkey*, Available at <https://www.wilsoncenter.org/article/womens-political-empowerment-and-cedaw-case-iran-and-turkey>, Accessed 30 Apr. 2023

<sup>93</sup> *Ibid*

<sup>94</sup> *Ibid*

women's role in politics, where women can express their aspirations and formulate policies that advance women based on equality.

Somalia is also a country that has not ratified its CEDAW. Women are disadvantaged in all of the four assessed domains, ranging from fewer economic opportunities to non-representation in political decision-making processes to lower educational attainments.<sup>95</sup> Male respondents are seven times more likely to be employed on a full-time basis compared to female respondents (21% vs 3%).<sup>96</sup>

The gap was more apparent in the higher the education level education, with only 10.1% of female respondents having attended secondary school and 7.53% of female respondents having a university degree.<sup>97</sup> Study finds that 66.7% of females who are in full-time employment and 50% in part-time employment are having university education as the higher education increases the likelihood of labour market participation.<sup>98</sup>

Even in employment, women are disadvantaged as they do not have as many opportunities to rise to positions of leadership.<sup>99</sup> Men are almost twice as likely to rise to positions of leadership in their job as women.<sup>100</sup>

It is intended that the impact of women's participation is very less in politics, education, and work, which causes the marginalization of women's

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<sup>95</sup> SSWC, 2023, Gender Gap Assessment, [https://oi-files-cng-prod.s3.amazonaws.com/heca.oxfam.org/s3fs-public/file\\_attachments/Executive%20Summary.pdf](https://oi-files-cng-prod.s3.amazonaws.com/heca.oxfam.org/s3fs-public/file_attachments/Executive%20Summary.pdf), Accessed April 30 2023.

<sup>96</sup> *ibid*

<sup>97</sup> *ibid*

<sup>98</sup> *ibid*

<sup>99</sup> *ibid*

<sup>100</sup> *ibid*

participation due to their gender. It can be concluded that women cannot get their rights as they should.