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An Overview of International Conventions against Inequality

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Abstract

Women are oppressed by the male dominant society since ages. However with the establishment of the UN, there have been many conventions and agencies created to improve the status of the women and uplift them. There are many international conventions which not only remove the inequalities prevailing in the society but also empower women with special privileges and powers over the dominant male society. The paper shall provide an overview of the international conventions which protect the women against any kind of discrimination in the society.

Introduction: Gender equality is essential for the achievement of human rights for all. Yet discriminatory laws against women persist in every corner of the globe and new discriminatory laws are enacted. In all legal traditions many laws continue to institutionalize second class status for women and girls with regard to nationality and citizenship, health, education, marital rights, employment rights, parental rights, inheritance and property rights. These forms of discrimination against women are incompatible with women's empowerment.¹ There are many international conventions which not only remove the inequalities prevailing in the society but also empower women with special privileges and powers over the dominant male society. These conventions merely assert that the women are on par with the men as god has made everyone equal at birth.

Universal Declaration of Human Rights: The Universal Declaration of Human Rights is a declaration adopted by the United Nations General Assembly on 10 December 1948. It states that: "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

Summary of Preamble:

The General Assembly recognizes that the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, human rights should be protected by the rule of law, friendly relations between nations must be fostered, the peoples of the UN have affirmed their faith in human rights, the dignity and the worth of the human person, the equal rights of men and women and are determined to promote social

¹ Combating discrimination against women, available at:

http://www.ohchr.org/EN/Issues/Discrimination/Pages/discrimination_women.aspx (last visited on: august 7, 2015)

progress, better standards of life and larger freedom and have promised to promote human rights and a common understanding of these rights.²

A summary of the Universal Declaration of Human Rights:

1. Everyone is free and we should all be treated in the same way.
2. Everyone is equal despite differences in skin colour, sex, religion, language for example.
3. Everyone has the right to life and to live in freedom and safety.
4. No one has the right to treat you as a slave nor should you make anyone your slave.
5. No one has the right to hurt you or to torture you.
6. Everyone has the right to be treated equally by the law.
7. The law is the same for everyone, it should be applied in the same way to all.
8. Everyone has the right to ask for legal help when their rights are not respected.
9. No one has the right to imprison you unjustly or expel you from your own country.
10. Everyone has the right to a fair and public trial.
11. Everyone should be considered innocent until guilt is proved.
12. Everyone has the right to ask for help if someone tries to harm you, but no-one can enter your home, open your letters or bother you or your family without a good reason.
13. Everyone has the right to travel as they wish.
14. Everyone has the right to go to another country and ask for protection if they are being persecuted or are in danger of being persecuted.
15. Everyone has the right to belong to a country. No one has the right to prevent you from belonging to another country if you wish to.
16. Everyone has the right to marry and have a family.
17. Everyone has the right to own property and possessions.
18. Everyone has the right to practise and observe all aspects of their own religion and change their religion if they want to.
19. Everyone has the right to say what they think and to give and receive information.
20. Everyone has the right to take part in meetings and to join associations in a peaceful way.
21. Everyone has the right to help choose and take part in the government of their country.
22. Everyone has the right to social security and to opportunities to develop their skills.
23. Everyone has the right to work for a fair wage in a safe environment and to join a trade union.
24. Everyone has the right to rest and leisure.
25. Everyone has the right to an adequate standard of living and medical help if they are ill.
26. Everyone has the right to go to school.
27. Everyone has the right to share in their community's cultural life.
28. Everyone must respect the 'social order' that is necessary for all these rights to be available.
29. Everyone must respect the rights of others, the community and public property.
30. No one has the right to take away any of the rights in this declaration.³

International Convention on the Elimination of All Forms of Racial Discrimination (ICERD):
The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) is

² simplified version of the universal declaration of human rights, available at:
http://www.hrea.org/index.php?base_id=104&language_id=1&erc_doc_id=5211&category_id=24&category_type=3&group= (last visited on: january 30, 2015)

³ ibid

a United Nations convention. The Convention commits its members to the elimination of racial discrimination. The convention was adopted and opened for signature by the United Nations General Assembly on 21 December 1965, and entered into force on 4 January 1969.⁴

Article 1 of the Convention defines "racial discrimination" as ...any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

Distinctions made on the basis of citizenship (that is, between citizens and non-citizens) are specifically excluded from the definition, as are affirmative action policies and other measures taken to redress imbalances and promote equality.⁵

Prevention of discrimination:

Article 2 of the Convention condemns racial discrimination and obliges parties to "undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms". It also obliges parties to promote understanding among all races. To achieve this, the Convention requires that signatories:

1. Not practice racial discrimination in public institutions
2. Not "sponsor, defend, or support" racial discrimination
3. Review existing policies, and amend or revoke those that cause or perpetuate racial discrimination
4. Prohibit "by all appropriate means, including legislation," racial discrimination by individuals and organisations within their jurisdictions
5. Encourage groups, movements, and other means that eliminate barriers between races, and discourage racial division⁶

Parties are obliged "when the circumstances so warrant" to use affirmative action policies for specific racial groups to guarantee "the full and equal enjoyment of human rights and fundamental freedoms". However, these measures must be finite, and "shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved".⁷

Article 5 expands upon the general obligation of Article 2 and creates a specific obligation to guarantee the right of everyone to equality before the law regardless of "race, colour, or national or ethnic origin". It further lists specific rights this equality must apply to: equal treatment by courts and tribunals, security of the person and freedom from violence, the civil and political rights affirmed in the ICCPR, the economic, social and cultural rights affirmed in the ICESCR, and the right of access to any place or service used by the general public, "such as transport hotels,

⁴ Ratification of international human rights treaties, available at: <https://michaelruark.wordpress.com/2014/09/14/ratification-of-international-human-rights-treaties-israel/> (last visited on: January 31, 2015)

⁵ Convention on the Elimination of All Forms of Racial Discrimination, available at: [Convention on the Elimination of All Forms of Racial Discrimination](#) (last visited on: august 8th, 2015)

⁶ International convention on the elimination of all forms of racial discrimination (icerd)

⁷ International convention on the elimination of all forms of racial discrimination, available at: https://en.wikipedia.org/wiki/International_Convention_on_the_Elimination_of_All_Forms_of_Racial_Discrimination (last visited on: august 7, 2015)

restaurants, cafes, theatres and parks." This list is not exhaustive, and the obligation extends to all human rights.

Article 6 obliges parties to provide "effective protection and remedies" through the courts or other institutions for any act of racial discrimination. This includes a right to a legal remedy and damages for injury suffered due to discrimination.⁸

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW): The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is an international treaty adopted in 1979 by the United Nations General Assembly. Described as an international bill of rights for women, it came into force on 3 September 1981.⁹

The Convention defines discrimination against women as follows:

"Any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."

It also provides for the action to reduce to sex-based discrimination:

"States must take measures to seek to eliminate prejudices and customs based on the idea of the inferiority or the superiority of one sex or on stereotyped role for men and women."

States ratifying the Convention are required to enshrine gender equality into their domestic legislation, repeal all discriminatory provisions in their laws, and enact new provisions to guard against discrimination against women. However, special protection for maternity is not regarded as gender discrimination (Article 4). Appropriate measures, including legislation, to suppress all forms of trafficking in women and forced prostitution are also not regarded as gender discrimination (Article 6). Equal opportunity in education for female students is required, and coeducation is encouraged. (Article 10).¹⁰ Right to work for women as "unalienable rights of all human being" with equal pay for equal work and right to social security, paid leave and maternity leave with pay or with comparable social benefits without loss of former employment and seniority or social allowance. Dismissal on the grounds of maternity, pregnancy or status of marriage shall be prohibited with sanction (Article 11). States ratifying the Convention must also establish tribunals and public institutions to guarantee women effective protection against discrimination, and take steps to eliminate all forms of discrimination practiced against women by individuals, organizations, and enterprises (Article 2 (e)).¹¹

Cedaw with UN Security Council: The 10th anniversary of Resolution 1325 in October 2010 highlighted the increasing demand for accountability to UN Security Council Resolution 1325 on Women, Peace and Security. Many expressed concern about the fact that only 22 Member States out

⁸ *ibid*

⁹ Women's national commission, cedaw one year on report, available at: <http://wnc.equalities.gov.uk/work-of-the-wnc/international-articles/cedaw/163-convention-on-the-elimination-of-all-forms-of-discrimination-against-women-cedaw.html> (last visited on: january 28, 2015)

¹⁰ Committee On The Elimination Of Discrimination Against Women, available at: http://netlibrary.net/articles/committee_on_the_elimination_of_discrimination_against_women (last visited on: august 8, 2015)

¹¹ *Supra* note 8.

of 192 have adopted national action plans. Women are still underrepresented if not totally absent in most official peace negotiations and sexual violence in conflict continue to increase. These realities emphasized the need to use other legal mechanisms to strengthen the implementation of SCR 1325, particularly CEDAW. The well-established mechanisms of CEDAW – the Member States compliance report and the civil society shadow reporting process were cited as powerful instruments to ensure accountability.¹²

Intersection between Security Council Resolution 1325 and CEDAW: While CEDAW and UN Security Council Resolutions 1325 and 1820 on Women, Peace and Security are important international instruments on their own, there is also an intersection among the three standards that can be used to enhance their implementation and impact. Resolutions 1325 and 1820 broaden the scope of CEDAW application by clarifying its relevance to all parties in conflict, whereas CEDAW provides concrete strategic guidance for actions to be taken on the broad commitments outlined in the two Resolutions. CEDAW is a global human rights treaty that should be incorporated into national law as the highest standard for women's rights. It requires UN Member States that have ratified it (185 to date) to set in place mechanisms to fully realize women's rights.

Resolution 1325 is an international law unanimously adopted by the Security Council that mandates UN Member States to engage women in all aspects of peace building including ensuring women's participation on all levels of decision-making on peace and security issues. Resolution 1820 links sexual violence as a tactic of war with the maintenance of international peace and security. It also demands a comprehensive report from the UN Secretary General on implementation and strategies for improving information flow to the Security Council; and adoption of concrete protection and prevention measures to end sexual violence.¹³

Resolutions 1325 and 1820 and CEDAW share the following agenda on women's human rights and gender equality¹⁴:

1. Demand women's participation in decision-making at all levels
2. Rejection of violence against women as it impedes the advancement of women and maintains their subordinate status
3. Equality of women and men under the law; protection of women and girls through the rule of law
4. Demand security forces and systems to protect women and girls from gender-based violence
5. Recognition of the fact that distinct experiences and burdens of women and girls come from systemic discrimination
6. Ensure that women's experiences, needs and perspectives are incorporated into the political, legal and social decisions that determine the achievement of just and lasting peace

A General Comment from the CEDAW committee could strengthen women's advocacy for the full implementation of Resolutions 1325 and 1820 at the country and community levels. Conversely,

¹² Ensuring Accountability To Un Sc Res 1325 & 1820 Using Cedaw Reporting Mechanisms, available at: http://www.wunrn.com/news/2010/11_10/11_29_10/112910_accountability.htm (last visited on: august 6, 2015)

¹³ Global network of women peace builders, ensuring accountability to un sc res 1325 & 1820 using cedaw reporting mechanisms, available at: http://www.wunrn.com/news/2010/11_10/11_29_10/112910_accountability.htm (last visited on: January 30, 2015)

¹⁴ Ibid.

CEDAW's relevance to conflict-affected areas will be underscored further by the two Resolutions. In other words, all three international instruments will reinforce each other and be much more effective if used together in leveraging women's human rights.¹⁵

Convention on the Rights of Persons with Disabilities: The Convention on the Rights of Persons with Disabilities is an international human rights instrument treaty of the United Nations. Parties to the Convention are required to promote, protect, and ensure the full enjoyment of human rights by persons with disabilities and ensure that they enjoy full equality under the law. The text was adopted by the United Nations General Assembly on 13 December 2006, and opened for signature on 30 March 2007. Following ratification by the 20th party, it came into force on 3 May 2008.¹⁶

Guiding principles of the Convention:

There are eight guiding principles that underlie the Convention:¹⁷

1. Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons
2. Non-discrimination
3. Full and effective participation and inclusion in society
4. Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity
5. Equality of opportunity
6. Accessibility
7. Equality between men and women
8. Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.¹⁸

The Article 8 of Convention stresses the awareness raising to foster respect for the rights and dignity against discrimination:¹⁹

1. To raise awareness throughout society, including at the family level, regarding persons with disabilities, and to foster respect for the rights and dignity of persons with disabilities.
2. To combat stereotypes, prejudices and harmful practices relating to persons with disabilities, including those based on sex and age, in all areas of life.
3. To promote awareness of the capacities and contributions of persons with disabilities.
4. Initiating and maintaining effective public awareness campaigns designed: (i) to nurture receptiveness to the rights of persons with disabilities. (ii) to promote positive perceptions and greater social awareness towards persons with disabilities. (iii) to promote recognition of the skills, merits and abilities of persons with disabilities, and of their contributions to workplace and the labour market.
5. Encouraging all organs of the mass media to portray persons with disabilities in a manner consistent with the purpose of the present Convention.

¹⁵ *ibid*

¹⁶ Convention on the Rights of Persons with Disabilities, available at:

<http://www.un.org/disabilities/convention/conventionfull.shtml> (last visited on: august 6, 2015)

¹⁷ Guiding Principles of the Convention, available at:

<http://www.un.org/esa/socdev/enable/convinfoguide.htm> (last visited on: august 4, 2015)

¹⁸ UN enable, guiding principles of the convention, available at:

<http://www.un.org/esa/socdev/enable/convinfoguide.htm> (last visited on: january 30, 2015)

¹⁹ convention on the rights of persons with disabilities

6. Promoting awareness-training programmes regarding persons with disabilities and the rights of persons with disabilities.

States Parties should²⁰:

1. reaffirm that persons with disabilities have the right to recognition everywhere as a person before the law.
2. recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.
3. take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.
4. ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law. Such safeguards shall ensure that measures relating to the exercise of legal capacity respect the rights, will and preferences of the person, are free of conflict of interest and undue influence, are proportional and tailored to the person's circumstance, apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or judicial body. The safeguards shall be proportional to the degree to which such measures affect the person's rights and interests.

Right to education²¹:

The Convention states that persons with disabilities should be guaranteed the right to inclusive education at all levels, regardless of age, without discrimination and on the basis of equal opportunity.

States Parties should ensure that:

1. children with disabilities are not excluded from free and compulsory primary education, or from secondary education;
2. adults with disabilities have access to general tertiary education, vocational training, adult education and lifelong learning;
3. persons with disabilities receive the necessary support, within the general education system, to facilitate their effective education; and
4. effective individualized support measures are put in place to maximize academic and social development.
5. States Parties should take appropriate measures

Right to health: Article 25 provides that "persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability."

Protecting the integrity of the person: Article 17 of the Convention provides that every person with disabilities has a right to respect for his or her physical and mental integrity on an equal basis with others.²²

Declaration on the Elimination of Violence against Women: The Declaration on the Elimination of Violence Against Women was adopted without vote by the United Nations General Assembly in its resolution 48/104 of 20 December 1993. Contained within it is the recognition of "the urgent

²⁰ Article 12 of Convention on the Rights of Persons with Disabilities.

²¹ Supra note 18.

²² *ibid*

need for the universal application to women of the rights and principles with regard to equality, security, liberty, integrity and dignity of all human beings".²³ The resolution is often seen as complementary to, and a strengthening of, the work of the Convention on the Elimination of All Forms of Discrimination against Women and Vienna Declaration and Programme of Action. It recalls and embodies the same rights and principles as those enshrined in such instruments as the Universal Declaration of Human Rights and Articles 1 and 2 provide the most widely used definition of violence against women. As a consequence of the resolution, in 1999, the General Assembly, led by the representative from the Dominican Republic, designated 25 November as the International Day for the Elimination of Violence against Women.²⁴

Definition of Violence Against Women: Articles 1 and 2 of the resolution provide the most accepted definition of violence against women.

Article One: For the purposes of this Declaration, the term "violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.

Article Two²⁵: Violence against women shall be understood to encompass, but not be limited to, the following:

- (a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;
- (b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;
- (c) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.

Conclusion: There are many conventions which protect the women from the discrimination and put the women on the footing as men. But the question is how far has these conventions really working? In other words, the implementation of these Conventions are quite depressing as many women not only in developing countries but also in developed countries still face many challenges and discrimination. The burden of the implementation of these Conventions do not fall only under the Governments. The process of internalization in men is much necessary rather than just a piece of legislation.

²³ Declaration on the Elimination of Violence against Women, available at:

<http://www.un.org/documents/ga/res/48/a48r104.htm> (last visited on: august 7, 2015)

²⁴ Guyana chronicle online, international day to eliminate violence against women – 2014, available at: <http://guyanachronicle.com/international-day-to-eliminate-violence-against-women-2014/> (last visited on: january 30, 2015)

²⁵ Declaration on the elimination of violence against women

References:

1. Combating discrimination against women, available at: http://www.ohchr.org/EN/Issues/Discrimination/Pages/discrimination_women.aspx (last visited on: august 7, 2015)
2. Simplified version of the universal declaration of human rights, available at: http://www.hrea.org/index.php?base_id=104&language_id=1&erc_doc_id=5211&category_id=24&category_type=3&group= (last visited on: January 30, 2015)
3. Ratification of international human rights treaties, available at: <https://michaelruark.wordpress.com/2014/09/14/ratification-of-international-human-rights-treaties-israel/> (last visited on: January 31, 2015)
4. Convention on the Elimination of All Forms of Racial Discrimination, available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx> (last visited on: august 8th, 2015)
5. International convention on the elimination of all forms of racial discrimination, available at: https://en.wikipedia.org/wiki/International_Convention_on_the_Elimination_of_All_Forms_of_Racial_Discrimination (last visited on: august 7, 2015)
6. Women’s national commission, cedaw one year on report, available at: <http://wnc.equalities.gov.uk/work-of-the-wnc/international-articles/cedaw/163-convention-on-the-elimination-of-all-forms-of-discrimination-against-women-cedaw.html> (last visited on: January 28, 2015)
7. Committee On The Elimination Of Discrimination Against Women, available at: http://netlibrary.net/articles/committee_on_the_elimination_of_discrimination_against_women (last visited on: august 8, 2015)
8. Ensuring Accountability To Un Sc Res 1325 & 1820 Using Cedaw Reporting Mechanisms, available at: http://www.wunrn.com/news/2010/11_10/11_29_10/112910_accountability.htm (last visited on: august 6, 2015)
9. Global network of women peace builders, ensuring accountability to un sc res 1325 & 1820 using cedaw reporting mechanisms, available at: http://www.wunrn.com/news/2010/11_10/11_29_10/112910_accountability.htm (last visited on: January 30, 2015)
10. Convention on the Rights of Persons with Disabilities, available at: <http://www.un.org/disabilities/convention/conventionfull.shtml> (last visited on: august 6, 2015)
11. Guiding Principles of the Convention, available at: <http://www.un.org/esa/socdev/enable/convinfoguide.htm> (last visited on: august 4, 2015)
12. UN enable, guiding principles of the convention, available at: <http://www.un.org/esa/socdev/enable/convinfoguide.htm> (last visited on: January 30, 2015)
13. Declaration on the Elimination of Violence against Women, available at: <http://www.un.org/documents/ga/res/48/a48r104.htm> (last visited on: august 7, 2015)
14. Guyana chronicle online, international day to eliminate violence against women – 2014, available at: <http://guyanachronicle.com/international-day-to-eliminate-violence-against-women-2014/> (last visited on: January 30, 2015)