

## **Rights of women as human rights**

**Dr. Mamta Rani**

Department of Pol-Science, D.A.V. College, Abohar, Punjab, India.

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### **Abstract**

Women and men and eliminating all forms of discrimination against women are fundamental human rights and United Nations values. Women around the world nevertheless regularly suffer violations of their human rights throughout their lives, and realizing women's human rights has not always been a priority. Achieving equality between women and men requires a comprehensive understanding of the ways in which women experience discrimination and are denied equality so as to develop appropriate strategies to eliminate such discrimination.

The United Nations has a long history of addressing women's human rights and much progress has been made in securing women's rights across the world in recent decades. However, important gaps remain and women's realities are constantly changing, with new manifestations of discrimination against them regularly emerging. Some groups of women face additional forms of discrimination based on their age, ethnicity, nationality, religion, health status, marital status, education, disability and socioeconomic status, among other grounds.

Finally, selected areas of women's human rights are examined together with information on the main work of United Nations human rights mechanisms and others pertaining to these topics. The aim of the publication is to offer a basic understanding of the human rights of women as a whole, but because of the wide variety of issues relevant to women's human rights, it should not be considered exhaustive.

**Keywords:** women's human rights, discrimination

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### **1. Introduction**

Attaining equality between women and men and eliminating all forms of discrimination against The United Nations has a long history of addressing women's human rights and much progress has been made in securing women's rights across the world in recent decades. However, important gaps remain and women's realities are constantly changing, with new manifestations of discrimination against them regularly emerging. Some groups of women face additional forms of discrimination based on their age, ethnicity, nationality, religion, health status, marital status, education, disability and socioeconomic status, among other grounds. These intersecting forms of discrimination must be taken into account when developing measures and responses to combat discrimination against women.

Finally, selected areas of women's human rights are examined together with information on the main work of United Nations human rights mechanisms and others pertaining to this topic. The aim of the publication is to offer a basic understanding of the human rights of women as a whole, but because of the wide variety of issues relevant to women's human rights, it should not be considered exhaustive.

Since the founding of the United Nations, equality between men and women has been among the most fundamental guarantees of human rights. Adopted in 1945, the Charter of the United Nations sets out as one of its goals "to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women". Historically unequal power relations between men and women, systemic or structural causes such as gender-based discrimination and a patriarchal value system. In addition, conflict causes an acceptance of higher levels of violence, and in the post-conflict phase deeply rooted inequalities that existed

before the conflict are aggravated <sup>[1]</sup>. It stipulates that one of the purposes of the United Nations is to promote respect for human rights and fundamental freedoms "without distinction as to race, sex, language or religion". This prohibition of discrimination based on sex is repeated in its Articles 13 (mandate of the General Assembly) and 55 (promotion of universal human rights). In 1948, the Universal Declaration of Human Rights was adopted. It, too, proclaimed the equal entitlements of women and men to the rights contained in it, "without distinction of any kind in drafting the Declaration, there was considerable discussion about the use of the term "all men" rather than a gender-neutral term <sup>[2]</sup>. The Declaration was eventually adopted using the terms "all human beings" and "everyone" in order to leave no doubt that the Universal Declaration was intended for everyone, men and women alike. The International Covenant on Economic, Social and Cultural Rights guarantees, for instance, the right to work, the right to form trade unions, rights relating to marriage, maternity and child protection, the right to an adequate standard of living, the right to health, the right to education, and rights relating to culture and science.

In 1967, United Nations Member States adopted the Declaration on the Elimination of Discrimination against Women, which states that discrimination against women is an offence against human dignity and calls on States to "abolish existing laws, customs, regulations and practices which are discriminatory against women, and to establish adequate legal protection for equal rights of men and women". Less than a year later a proposal for a legally binding treaty on women's rights was made. The Convention on the Elimination of All Forms of Discrimination against Women was adopted by the General Assembly in 1979. Its preamble explains that, despite the

existence of other instruments, women still do not enjoy equal rights with men. The Convention articulates the nature and meaning of sex-based discrimination, and lays out State obligations to eliminate discrimination and achieve substantive equality. As with all human rights treaties, only States incur obligations through ratification. However, the Convention articulates State obligations to address not only discriminatory laws, but also practices and customs, and discrimination against women by private actors. With these general principles as an overarching framework, the specific obligations of States to eliminate discrimination against women in political, social, economic and cultural fields are laid out in 16 substantive articles. The Convention covers both civil and political rights (rights to vote, to participate in public life, to acquire, change or retain one's nationality, equality before the law and freedom of movement) and economic, social and cultural rights (rights to education, work, health and financial credit). Women's rights in, access to and control over land, housing and property are a determining factor in their living conditions especially in rural economies, essential to women and their children's daily survival, economic security and physical safety. Despite the importance of these rights for women and female-headed households, women still disproportionately lack security of tenure. Differences in the average life expectancy of men and women need to be taken into account in the design of schemes, since they can lead to de facto discrimination, and non-contributory schemes also have to take into account that women more often than men live in poverty and often have the sole responsibility for the care of their children. Contributory pension schemes can accentuate inequalities, with older women more likely to receive lower pensions and other contributory benefits <sup>[3]</sup>. Purely economic analysis of immigration fails to take into account the human value of the individual immigrant and the inherent human right to a life in dignity <sup>[4]</sup>.

The Convention also pays specific attention to particular phenomena such as trafficking, to certain groups of women, for instance rural women, and to specific matters where there are special risks to women's full enjoyment of their human rights, for example marriage and the family. The Convention defines discrimination in its article 1 as "... 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."

Such discrimination encompasses any difference in treatment on the grounds of sex which:

- 1 Internationally or unintentionally disadvantages women.
- 2 Prevents society as a whole from recognizing women's rights in both the private and the public spheres.
- 3 Prevents women from exercising the human rights and fundamental freedoms to which they are entitled.

The Convention foresees that achieving equality may require positive action on the part of the State to improve the status of women. To accelerate women's actual equality in all spheres of life, States are permitted to use temporary special measures for as long as inequalities continue to exist. The Convention thus reaches beyond the narrow concept of formal equality and aims for equality of opportunity and equality of outcome. Temporary special measures are both lawful and necessary to achieve these goals. In principle, these measures should be removed once equal status has been achieved.

Importantly, the Convention adds new, substantive provisions to the other instruments which also deal with equality and non-discrimination. Article 5 establishes that in addition to recognizing women's legal equality and promoting their de facto equality, States should also strive to eliminate the social, cultural and traditional patterns that perpetuate harmful gender stereotypes and to create an overall framework in society that promotes the realization of women's full rights. The Convention on the Rights of the Child (art. 2) and the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (art. 7) also prohibit discrimination based on sex. The Convention on the Rights of Persons with Disabilities (art. 6) recognizes the multiple discrimination that women with disabilities are subjected to, and requires State parties to address this by taking "all appropriate measures to ensure the full development, advancement and empowerment of women" in the enjoyment of their human rights. In its general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination, the Committee on the Elimination of Racial Discrimination, which oversees compliance with the International Convention on the Elimination of All Forms of Racial Discrimination, also recognized the gender dimensions of racial discrimination and said it would "endeavour in its work to take into account gender factors or issues which may be interlinked with racial discrimination." The Committee against Torture, which monitors the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, also regularly addresses issues of violence against women and girls.

Women's rights have been at the heart of a series of international conferences that have produced significant political commitments to women's human rights and equality. Starting in 1975, which was also International Women's Year, Mexico City hosted the World Conference on the International Women's Year, which resulted in the World Plan of Action and the designation of 1975–1985 as the United Nations Decade for Women. In 1980, another international conference on women was held in Copenhagen and the Convention on the Elimination of All Forms of Discrimination against Women was opened for signature. The third World Conference on Women was held in Nairobi, with the Committee on the Elimination of Discrimination against Women having begun its work in 1982. These three world conferences witnessed extraordinary activism on the part of women from around the world and laid the groundwork for the world conferences in the 1990s to address women's rights, including the Fourth World Conference on Women held in Beijing in 1995 (see below). In addition, the rights of women belonging to particular groups, such as older women, ethnic minority women or women with disabilities, have been also addressed in various other international policy documents such as the International Plans of Action on Ageing (Vienna, 1982 and Madrid, 2002), the Durban Declaration and Programme of Action (2001) and the World Programme of Action concerning Disabled Persons (1982). In 1993, the World Conference on Human Rights was held in Vienna. It sought to review the status of the human rights machinery in place at the time. Women's rights activists mobilized to ensure that women's human rights were fully on the agenda of the international community under the rallying cry "Women's Rights are Human Rights." Particularly around the issue of violence against women, civil society activists organized tribunals to put the spotlight on violations of women's rights, previously unaddressed because they were

considered part of the private sphere, taboo or simply accepted as an inevitable part of women's lives. The Conference was successful in adopting the Vienna Declaration and Programme of Action, which stated that "the human rights of women and of the girl-child are an inalienable, integral and indivisible part of universal human rights" and placed particularly heavy emphasis on eliminating all forms of gender-based violence. Vulnerability to violence is understood as a condition created by the absence or denial of rights <sup>[5]</sup>. Importantly, the Programme of Action also called for "the eradication of any conflicts which may arise between the rights of women and the harmful effects of certain traditional or customary practices, cultural prejudices and religious extremism"

The International Conference on Population and Development, which was held in 1994, represented a milestone for women's rights. While the Conference was focused on population issues, the delegates meeting in Cairo agreed that population was not only about demographics but, more importantly, about people. The issues taken up in its Programme of Action<sup>5</sup> are fundamentally related to women's human rights, including gender equality, the family, reproductive health, birth control and family planning, women's health, as well as immigration and education of women. Importantly, the Programme of Action is explicitly grounded in human rights and proclaims that "advancing gender equality and equity and the empowerment of women, and the elimination of all kinds of violence against women, and ensuring women's ability to control their own fertility, are cornerstones of population and development-related programmes." The Conference was also important for its clear statement of reproductive rights, explaining that these "rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health.

The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the Declaration on Human Rights Defenders, recognizes the important role of human rights defenders, including that of women defenders, and outlines the rights of all human rights defenders and the obligations of States. The Special Rapporteur on the situation of human rights defenders has drawn attention to the specific challenges facing women human rights defenders and those working on women's rights or on gender issues (A/HRC/16/44). Women human rights defenders are subject to the same types of risks as other human rights defenders, but as women they are also targeted for or exposed to gender-specific threats and gender specific violence <sup>[6]</sup>. The reasons for this are multifaceted and complex, and depend on the specific context in which the individual woman is working. Often, the work of women human rights defenders is seen as challenging traditional notions of family and gender roles in society, which can lead to hostility by the general population and the authorities. They are therefore stigmatized and ostracized by community leaders, faith-based groups, families and communities that consider them to be threatening religion, honour or culture through their work. In addition, the work itself or what they are striving to achieve (for instance, the realization of women's rights or any gender-related rights) also makes them targets for attack. Their families also become targets for threats from pursuing their work. The Special Rapporteur on the situation of human rights defenders

has acknowledged that women defenders are more at risk of being subjected to certain forms of violence and other violations, prejudice, exclusion and repudiation than their male counterparts. It is therefore important to strengthen protection mechanisms and other—local and international—responses to their specific concerns. The Special Rapporteur has recommended that States should ensure that protection programmes for human rights defenders integrate a gender perspective and address the specific needs of women human rights defenders. This must include prompt investigation of intimidation, threats, violence and other abuses against women human rights defenders whether committed by State or non-State actors. In practice, however, women human rights defenders are often without effective protection mechanisms. Although the State has the primary responsibility to protect defenders when they are threatened or attacked, the international community as well as the United Nations presences on the ground also have a responsibility to support and protect them, bearing in mind the basic principles of confidentiality, do no harm and the informed consent of the person.

Women's ability to participate in public and political life is integrally related to their ability to claim citizenship and nationality-related rights. The Convention on the Elimination of All Forms of Discrimination against Women calls on States to "grant women equal rights with men to acquire, change or retain their nationality" and to "ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband" (article 9). It also requires State parties to "grant women equal rights with men with respect to the nationality of their children". The Committee has explained that nationality is critical to full participation in society and that not having one has a serious impact on the enjoyment of other rights such as the right to vote, stand for public office, access public benefits and choose a residence. Article 15 requires State parties to "accord to women equality with men before the law" as well as identical legal capacity in civil matters. The Committee has further explained that any restriction in this field seriously limits the woman's ability to provide for herself and her dependants. The Committee has also noted with concern the high number of reservations to articles 9, 15 and 16, and called on States to withdraw them and to enact and enforce legislation in accordance with these articles.

## 2. Conclusion

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### **3. References**

- 1 Niamh Reilly, *Women’s Human Rights*, Polity Press, 2009, 98.
- 2 Johannes Morsink. *Women’s rights in the Universal Declaration*, *Human Rights Quarterly*, 1991; 13:2.
- 3 See also the report of the United National Commission for Human Right on the human rights situation of older person (E/2012/51), Para. 51.
- 4 Global Migration Group, *International Migration and human rights*, 5.
- 5 *In-depth study on all forms of violence against women* (A/61/122/Add.1), 65.
- 6 Inmaculada Barcia. *Urgent responses for women human rights defenders at risk, mapping and preliminary assessment* (Association for Women’s Rights in Development, June 2011), iii.