

## CEDAW AND THE HUMAN RIGHTS OF WOMEN: AN OVERVIEW

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<b>Published:</b> 10 <sup>th</sup> March 2022	Women are often not provided equal opportunities in various fields such as education, employment and health. The rising social inequalities directly affect the economy and the political participation of women. This article provides an insight to the various Human Rights treaties, with an overview of the core provisions of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Women and the progress they have made over the last few decades is discussed in detail, along with the steps taken by the United Nations to promote the development of women.
<b>Keywords:</b> Human Rights; Women Empowerment; CEDAW; Gender Equality;	

### 1. INTRODUCTION TO HUMAN RIGHTS:

Every human being is entitled to certain activities, conditions, and privileges that they deserve to enjoy, by virtue of their humanity. The fundamental rights and freedoms of every person are inalienable, indivisible, inherent and interdependent. These rights are civil, political, economic, social and cultural in nature. The late 17<sup>th</sup> century saw the emergence of new democracies with written constitutions due to major social, economic and political changes. Certain general principles, now known as human rights, formed the core of documents such as the American Declaration of Independence and the French Declaration des Droits de l'Homme et du Citoyen, as well as the written constitutions of most nation states like India, the United States of America, Canada, Australia, Italy and South Africa, among many others. On the 10<sup>th</sup> of December, 1948, the United Nations (UN) General Assembly drafted the Universal Declaration of Human Rights (UDHR) with the help of several representatives with diverse cultural and legal backgrounds. The UDHR is a widely recognized declaration that has laid down a common standard of achievements for all people, irrespective of their sex, nationality and other features.

Due to rising social inequalities, the fundamental human rights of women tend to be violated. Women and girls are also equally entitled to the rights to health, education, political participation, economic well-being and freedom from violence, among many other rights. The Charter of the United Nations guarantees the equal rights of women and men through international human rights instruments that stipulate ending discrimination on the basis of sex. Almost all countries have ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Despite such obligations under international law, women continue to experience violations and abuses of their human rights, in the form of violence, inequalities in labour and employment opportunities, property rights, etcetera.

### 2. WOMEN AND SUSTAINABLE DEVELOPMENT GOALS:

Gender equality is a foundational concept in the struggle to achieve women's human rights. The primary objective of gender equality is to provide the same opportunities, rights and responsibilities to both, men and women. The United Nations General Assembly set up seventeen global goals in 2015, for a future that is sustainable and better for all.

These goals are known as Sustainable Development Goals (SDGs) and are intended to be achieved by 2030. The 5<sup>th</sup> Sustainable Development Goal seeks to achieve gender equality. Ending all kinds of discrimination against women and girls is not only a basic human right, but also paves a path for a sustainable future. The empowerment of women and girls boosts economic growth and development and thus, is necessary for a bright future. SDG 5 states, "Achieve gender equality and empower all women and girls." and the United Nations Development Programme (UNDP) has taken great measures in regard to it, over the last two decades, especially in areas of education and employment. Since the progress towards SDGs is measured by indicators, it is extremely crucial to provide equal rights and opportunities to women and men. Although the number of women employed in labour markets is increasing, inequalities are still prevalent. The effects of discrimination in the workplace, exploitation, violence, conflict and migration, natural calamities and climate change, on women is truly immeasurable. Women do 2.6 times more unpaid care and domestic work than men and this unequal distribution threatens the opportunities of women to rise in the society. Encouraging women leaders can help to soften the blow of these practices and the hegemonic patriarchy that is present in many regions. Discrimination against women needs to be curbed by ensuring that their rights to education, equality of opportunity, freedom of religion, among other fundamental rights and access to facilities such as

sexual and reproductive health centres, technology and the internet, are not infringed. According to the UNDP, more girls are now receiving education, as compared to 15 years ago and 2 of 3 developing countries have achieved gender parity in primary education. We are on the path to success and with consistent efforts to empower oppressed women, SDG 5 can be achieved by 2030.

### **3. CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)**

The United Nations (UN) adopted the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which is the central and most comprehensive document about the human rights of women, on the 18<sup>th</sup> of December 1979. It entered into force on the 3<sup>rd</sup> of September 1981, and 189 States, out of 193 UN Member States, are party to it. The Convention is often referred to as the "Women's Bill of Rights" and condemns any form of discrimination against women while guaranteeing equal political, economic, social, cultural and civil rights to women and men. The Convention formed the zenith of about three decades of work by the United Nations Commission on the Status of Women, that was established in 1946 to promote women's rights. It is one of the core international human rights treaties of the United Nations treaty system that requires Member States to undertake certain legal obligations to respect, protect and fulfil human rights of all women. It has laid down the principle of equality in fourteen articles and sheds light on the civil rights and the legal status of women. CEDAW is also concerned with human reproduction and the impact of cultural factors on gender relations, which are not usually seen in other human right treaties.

The Charter of the United Nations reaffirms faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women in the Preamble of the Convention. It acknowledges that the existence of extensive discrimination against women "violates the principles of equality of rights and respect for human dignity". It voices its concerns in regard to situations of poverty, where women have "the least access to food, health, education, training and opportunities for employment and other needs," whilst mentioning other reasons that led to the drafting of the CEDAW. The Preamble clearly mentions that, "the role of women in procreation should not be a basis for discrimination" and ensures that the Convention pays special attention to the reproductive and sexual health of women.

Part I of the CEDAW consists of articles 1 to 6 that focus on non-discrimination, sex stereotypes, and sex trafficking. Article 1 provides the definition of discrimination 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." Article 2 undertakes the embodiment of the principle of equality, implementation or modification of appropriate legislations and measures to eliminate discrimination, establishment of legal protection of the rights of women, and the abolition of all national penal provisions which discriminate against women. The Convention upholds the principle of equality by requiring States Parties to take "all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men." Special measures for maternity protection are recommended and are not considered to be discriminatory as under Article 4. The elimination of social prejudices and stereotypes by modification of the cultural and social patterns of conducts along with education regarding the maternity benefits and interests of children are laid down in Article 5. Suppression of trafficking and exploitation of prostitution of women is guaranteed by the last article of Part I.

Part II of the Convention comprises of Articles 7, 8 and 9 and elaborates upon women's rights in the public sphere with an emphasis on political life, representation, and rights to nationality, respectively. The provisions identical to the 1952 Convention on the Political Rights of Women are laid down in the first article of this part. These provisions guarantee women's rights to vote, to hold public office and to exercise public functions. Article 8 includes equal rights for women to represent their countries at the international level. The Convention on the Nationality of Married Women which was adopted in 1957 is thereby integrated under Article 9 to provide providing for the stability of nationality of women, irrespective of their marital status, to prove that women's nationality does not depend on that of their husbands'.

Articles 10 to 14 make up Part III of the CEDAW and describe the economic and social rights of women, particularly focusing on education, employment, and health, along with special protections for rural women regarding the problems they face. Women's rights to non-discriminations in fields of education, employment, health and socio-economic activities are elaborated upon the subsequent Articles 10, 11, 12 and 13, respectively. Article 14 brings the attention of the State to rural women and prescribes elaborate policy planning while keeping their struggles in mind. Part IV consists of the final core provisions of the Convention – Articles 15 and 16. Equality of both sexes in civil and business matters is promoted in Article 15. It deems the restriction of the legal capacities of women as "null and void." Article 16 outlines the woman's right to equality in issues of marriage and family life. It provides the same rights to enter into marriage with a person of their choice and to have the same responsibilities during marriage as well as at

its dissolution. It provides equal rights and responsibilities in matters regarding their children and their education, profession and occupation, guardianship, wardship and trusteeship and the ownership, acquisition, management, administration, enjoyment and disposition of property.

Further, Part V (Articles 17-22) establishes the Committee on the Elimination of Discrimination against Women as well as the states parties' reporting procedure while Part VI (Articles 23-30) describes the effects of the Convention on other treaties, the commitment of the State Parties and the administration of the Convention.

Today, CEDAW still remains as the most widely applicable human rights treaty that is dedicated to women's rights. It recognises the influence of traditions and culture in the restriction of the enjoyment of fundamental rights. It urges the State Parties to change the social and cultural patterns of men and women and abolish practices that are based on the superiority or inferiority of either sexes. All in all, it provides a detailed and comprehensive framework to challenge the several forces that have given birth to discrimination of women.

#### **4. OTHER LEGISLATIONS SAFEGUARDING RIGHTS OF WOMEN**

The Preamble of the Universal Declaration of Human Rights provides for the equal rights of men and women and promotes social progress and better standards of life in larger freedom. Articles 2, 3 and 26 of the International Covenant on Civil and Political Rights promote gender equality, prevent discrimination and provide remedies to victims of violation of human rights. The International Covenant on Economic, Social and Cultural Rights allows equal protection to all under Articles 2 and 3 of the Covenant. It also ensures, "Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work," under Article 7(a)(i). Article 14 of The Convention for the Protection of Human Rights and Fundamental Freedoms reaffirms that it shall not discriminate on any ground, including sex. The European Social Charter (Revised) also provides for fair remuneration or equal pay for work of equal value and lays down certain rights of employed women to the protection of maternity, in Articles 4(3) and 8, respectively. It also states the right of workers with family responsibilities to equal opportunities and equal treatment in Article 27. Even as prisoners, individuals have human rights and women are kept safe and are not discriminated. The 6<sup>th</sup> paragraph of the United Nations Standard Minimum Rules for the Treatment of Prisoners, applies rules impartially and does not discriminate on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Paragraph 8 instructs different categories of prisoners to be kept in separate institutions or parts of institutions taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment. Paragraph 23 reads, "In women's institutions there shall be special accommodation for all necessary pre-natal and post-natal care and treatment. Arrangements shall be made wherever practicable for children to be born in a hospital outside the institution." Finally, paragraph 53 safeguards women in an institution for both sexes. "The part of the institution set aside for women shall be under the authority of a responsible woman officer who shall have the custody of the keys of all that part of the institution" and that, "No male member of the staff shall enter the part of the institution set aside for women unless accompanied by a woman officer." is thereby stated in it.

Some other documents regarding human rights are the Istanbul Convention (Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence), Convention on the Nationality of Married Women, Convention on the Political Rights of Women, Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, Inter-American Convention on the Granting of Civil Rights to Women, Inter-American Convention on the Granting of Political Rights to Women, Inter-American Convention on the Nationality of Women, Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, African Charter on Human and Peoples' Rights, Maputo Protocol (Protocol to the African Charter on the Rights of Women in Africa), American Convention on Human Rights, and Arab Charter on Human Rights.

#### **5. PROGRESS OF WOMEN'S HUMAN RIGHTS**

Although more than two-thirds of the world's 796 million illiterate people are women, efforts are being made to provide them equal opportunities in the fields of education for promoting sustainable development. The focus of the youngest Noble Peace Prize laureate, Malala Yousafzai, is the quality education of women. In 2013, Malala and her father co-founded the Malala Fund to spread awareness in regard to the social and economic impact of girls' education and to empower girls to demand change. She also became a United Nations Messenger of Peace in 2017 to help raise awareness of the importance of education of girls and women. Rapid progress is being made towards increasing access to education at all levels, and increasing the enrolment rates of women and girls in schools. The world has made substantial progress in achieving universal primary education, with equal number of girls and boys participating in primary education in most countries. The school closures caused due to the Covid-19 pandemic are likely to set back progress on access to education, but evidence shows that when girls have access to schooling, they tend to perform better academically, than boys of the same age. Women still don't have equal opportunities in the fields of science, technology, engineering and mathematics, and form only about 35 per cent of the world's STEM graduates. To

achieve the SDG of gender equality by 2030, the United Nations International Children's Emergency Fund (UNICEF) has been monitoring the status of women and children. It partners with national health sectors to provide healthcare facilities for maternal care and reproductive and sexual health. It promotes women to be employed in sectors of delivery of water, sanitation and hygiene (WASH). According to the data provided by UNICEF's program and policy work on gender equality, as compared to 1995, women and girls have made great progress which can be summarized as follows:

- The life expectancy of girls at birth has increased to 75.2 years in 2020, as compared to 67.5 years in 1995.
- The number of girls who are not enrolled in schools for primary education has reduced to 32 million from 65 million, 30 million from 52 million for lower secondary schools, and 67 million from 91 million in upper secondary schools.
- The female youth literacy of girls aged 15 to 24 has increased from 80 per cent in 1995 to 90 per cent in 2020.
- The rate of child marriage has also reduced. Earlier, 1 in 4 girls would lose their childhood to child marriage, whereas now, 1 in 5 girls are forced to get married to relieve the financial pressure on their families.
- The number of new HIV infections in girls aged 10 to 19 has reduced drastically as well. In 1995, about 280,000 new HIV infections would be detected as compared to 2020's 140,000 infections.

## **6. CONCLUSION**

Women are now stepping up for their human rights and are speaking up on platforms to influence other women. The co-captain of the U.S. Women's National Team, Megan Rapinoe, filed a lawsuit in March 2019 against the U.S. Soccer Federation alleging pay discrimination. In 2018, the 15-year-old Greta Thunberg took the initiative to protect the environment and prove that women and children's voices matter too. She believes that women improve the economy and gender equality reduces poverty. Kamala Harris, Oprah Winfrey, Edna Adan Ismail, and many others are defending the human rights of women and advocating for gender equality. In the wise words of Michelle Obama, "There is no limit to what we, as women, can accomplish." Women's human rights are more widely understood now. It is now time for us, as society, to make gender equality and women empowerment a necessity, with no discrimination, infringement of rights or any kind of inequality.

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