

Protection of the Human Rights of Women under International Law

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ABSTRACT: *Most contemporary constitutions prohibit discrimination based on gender. Yet, as feminist legal scholars have shown, even a constitutional principle of nondiscrimination is not sufficient by itself to ensure women's de facto equality. These scholars advocate applying a gendered perspective to constitutional law so as to adapt it to the specific situation of women. In recent years, universal and regional human rights bodies have begun to employ this approach in connection with human rights treaties, interpreting them in light of the special threats posed to women's human rights. Such interpretations lend themselves to transposition into national constitutional law (in some if not all cases) and, in legal systems that have formally incorporated public international law, such transpositions may even be obligatory.*

KEYWORDS: *Constitutional law, Equality, Rights, Women, Empowerment, Discrimination.*

INTRODUCTION

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”. Furthermore, Article 1 of the Charter 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” [1]. 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). The Universal Declaration of Human Rights was approved in 1948. “It also proclaimed that women and men had equal rights to the rights contained in it, “without distinction of any kind, such as... The use of the word “all men” rather than a gender-neutral term was considerably debated in the drafting of the Declaration.¹ The Declaration was finally adopted using the words “all human beings” and “everyone” in order to leave no doubt that the Universal Declaration was intended for all, men and women alike [2].

International Human Rights Instruments

After the adoption of the Universal Declaration, the Commission on Human Rights began drafting two human rights treaties, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. These make up the International Bill of Human Rights, along with the Universal Declaration. As well as other

human rights treaties, the terms of the two Covenants are legally binding on the States that ratify or accede to them. States ratifying such treaties report annually to bodies of experts issuing recommendations on the measures necessary to comply with the obligations lay down in the treaties. These treaty enforcement bodies also have authoritative interpretations of the treaties and also accept individual reports of suspected violations, whether the States have agreed to them [3]. Each Covenants use the equal wording to limit discrimination based totally on, inter alia, sex (artwork. 2), in addition to make certain the equal proper of males and females to the leisure of all rights contained in them (artwork. 3). The international Covenant on Civil and Political Rights guarantees, among different rights, the right to existence, freedom from torture, freedom from slavery, the right to liberty and protection of the individual, rights regarding due manner in crook and prison proceedings, equality before the regulation, freedom of motion, freedom of concept, sense of right and wrong and religion, freedom of affiliation, rights regarding family life and kids, rights regarding citizenship and political participation, and minority agencies' rights to their culture, religion and language [4].

In 1967, the Resolution on the Abolition of Discrimination against Women was adopted by the Member States of the United Nations, which states that discrimination against women is an offence against human dignity and calls on States to 'abolish current laws, customs, regulations and practices that discriminate against women and to provide sufficient legal safeguards for equal rights for women and men.' Less than a year later, a request was made for a legally binding women's rights treaty [5]. The General Assembly adopted the Convention on the Abolition of All Forms of Discrimination against Women in 1979. The Convention articulates the essence and purpose of discrimination based on sex and sets out the duties of the State to eradicate discrimination and to attain substantive equality. As in all human rights treaties, by ratification, only states incur obligations. The Convention, however, articulates the duty of the State not only to comply with patriarchal legislation, but also with traditions and customs, and with discrimination against women by private actors. With those general principles as an overarching framework, the unique duties of States to put off discrimination in opposition to women in political, social, monetary and cultural fields are specified in 16 major articles [6].

The conference covers both civil and political rights (rights to vote, to take part in public existence, to gather, trade or hold one's nationality, equality before the law and freedom of movement) and monetary, social and cultural rights (rights to education, work, health and financial credit score). The conference additionally will pay particular interest to unique phenomena together with trafficking, to sure groups of girls, as example rural ladies, and to precise subjects in which there are unique dangers to women's complete entertainment of their human rights, for instance marriage and the family. The conference defines discrimination in its article 1 as "... any distinction, exclusion or limit made on the basis of sex which has the impact or reason of impairing or nullifying the popularity, amusement or exercise by using women, regardless of their marital reputе, on a basis of equality of males and females, of human rights and essential freedoms in the political, economic, social, cultural, civil or any other field [7]."

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

- Intentionally or unintentionally disadvantages women;
- Prevents society as a whole from recognizing women's rights in both the private and the public spheres;
- Prevents women from exercising the human rights and fundamental freedoms to which they are entitled [8].

The Convention also sets out the various ways in which States Parties may eradicate discrimination, such as by means of appropriate legislation prohibiting discrimination, ensuring the legal security of women's rights, avoiding discrimination, protecting women from discrimination by any person, organization or undertaking, and amending or abolishing discriminatory legislation. It is foreseen by the Convention that achieving equality can require the State to take positive action to improve the status of women. States are permitted to use temporary special measures as long as inequalities continue to exist to accelerate the true equality of women in all spheres of life. Thus, the Convention goes beyond the narrow definition of formal equality and aims at equal opportunities and equality of outcomes. To accomplish these aims, temporary special measures are both lawful and necessary. In theory, once fair status has been attained, these steps should be eliminated. Importantly, to the other instruments which also deal with equality and non-discrimination, the Convention introduces new, substantive provisions. Article 5 provides that States should aim, in addition to respecting the legal equality of women and fostering their de facto equality, to eradicate the institutional, cultural and conventional trends that perpetuate negative gender stereotypes, and to establish an overall social environment that facilitates the realization of the full rights of women [9].

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. The Committee on the Elimination of Racial Discrimination, which oversees compliance with the International Convention on the Elimination of All Types of Racial Discrimination, in its General Recommendation No. 25 (2000) on the gender-related dimensions of racial discrimination, also acknowledged the gender-related dimensions of racial discrimination and claimed that it would 'endeavor, in its work, to follow the gender dimensions of racial discrimination [10].

CONCLUSION & DISCUSSION

Some good practices that have increased women's access to justice have been so-called one-stop shops. They integrate services and offer women victims everything from health care and counseling to legal aid and collection of evidence in one place, reducing barriers and cost. Specialized and mobile courts are another successful example of how women's access to justice

can be improved in practice. These courts can bring justice closer to victims, especially women living in remote areas, to address issues such as gender-based violence effectively.

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