Study of Gender Equality in Rights and Duties in the Employment Provisions of the International Documents

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ABSTRACT: The right to employment and occupation is one of the fundamental human rights, and this issue has caused governments not only considers the right to occupation for women, but in this regard, set rules for them. Iran's rights do not address precisely and expertly the issue of women's employment and in legislation, equally look has been given to men and women, mostly without considering the specific conditions of women and their maternal position. However, after the Islamic Revolution, efforts took place to eliminate the discrimination. According to the constitution, everyone has the right to the adopt the job which he is willing to and is not contrary to Islam and the public interests and the rights of others, but under other laws, women are barred from taking certain jobs such as judging. "International human rights instruments," including public documents and special documents of women's rights have tried to remove inequalities and women employment discrimination and have attempted to change the social and legal foundations. One of the international documents that dealt with the issue of women's employment is the Convention on the Elimination of All Forms of Discrimination against women, which can be described as a set of standards for women's rights and one of the great achievements of the international community. In this paper, we have dealt with the comparative review of regulation of the employment of women in Iranian law and international documents on the rights and duties in a descriptive and analytical method and found that despite efforts taken to improve the employment situation of women's rights in Iran’s law, still there are differences between employment rights and international documents, it is recommended that Iran joins the Convention on the Elimination of Discrimination against Women and reforms women's employment law, and strategies should be adopted to meet women about their rights, including radio and television.

Keywords: Gender equality, Employment right, International documents, Iran’s law

INTRODUCTION

While the attention has been given to issues and scientific research associated with events and needs of every age, now it is necessary to give attention to women's issues and studies about them and the need for scientific research relating to them such as issues about the employment rights of women. One thing that almost had little effect in the study of the humanities for a while ago due to cultural, historical, and perhaps because of lack of knowledge and its importance, now is allocated a part of the human science and has been one of the thriving issues in the scientific circles and administrative circles at national and international level. In this regard, giving attention to women's rights as a part of women's studies is more research because it has fundamental importance in the status of women in different areas. On the other hand, the rights of women have its own way compared to other legal systems of the people as well, which is due to the variety of the legal aspects related to it such that it has a special place among all branches
of law. In addition, because they comprise half of each society, also hold a range of different strata of society. Thus, while the rights of women can be investigated in terms of international law and domestic law, that are associated, directly or indirectly, with all areas of legal and in other words the science of law.

Defining rights of women, it can be said that it is as part of human rights in overall level, which is implied as fundamental and inalienable rights that is necessary for the woman's life as a human, and they are stemmed as physical demands, psychological, social and many of them should be resolved through the work and occupation. Although this right is a right for all human beings, but for the benefit of it, women are more facing many problems than men.

"International documents" including public documents and particular documents of women's rights have attempted to eliminate inequalities and employment discrimination and have tried to change the social and legal foundations. The Convention on the Elimination of All Forms of Discrimination against Women is a consistent set of standards for women's rights and one of the great achievements of the international community which examines various aspects of women's employment rights.

1. Comparative staff regulations of women's rights and international official documents on the rights and responsibilities

First: equality of opportunity
Equality has been the most beautiful words in human history and certainly one of the old ideals of the human race on the side of justice.

The ideal divine religions, particularly Islam have always emphasized on it.

We see the first tendencies towards the concept of equality in the ancient Greek, in the works of Plato and Aristotle in particular. Many people also has emphasized on this in Christianity. For the first time during the French Revolution, this concept was crystallized as pervasive and became Declaration of Human Rights and French citizen in 1789. Although this concept was brought out in a legal document, nevertheless, it did not become well-known as a principle of law until the twentieth century in this land; only equality in several countries, including our society is a clear example which is the equality of women and men. Providing women employment and occupation and reach economic independence for women is one of the most objectives, which is represented in the perspective of gender equality. Male authority in the family is attributed to his breadwinner and gaining economic independence and productive role are required in establishing equality between men and women in the family and the presence of women in managerial level is one of the slogans that still after years of trying, come to nothing.

Sweden, for example, that has the first rank in adoption of the Convention and implementation of gender equality in the West, has not been successful in granting top-level positions to women. It is interesting that even in the United Nations, which is the pioneer of equality between women and men; there is a small number of women's representation. There has been a lot of implications in international documents on this right that can be seen in recommendation letters, books, articles, covenants, declarations, resolutions, protocols, conventions etc. Which encourage countries and governments to create better opportunities for women employment and occupation? What is important that there are similarities and differences between domestic law of Iran and international documents on equal opportunities that we will mention them in following discussion?

However, before we point to these similarities and differences, it should be noted that employment and occupation laws have been used in the same concept in all international documents that have been studied and sometimes the purpose of occupation in this document is the same as employment. However, laws related to occupation are different from those related to

1 Isa Khani, poison inequality in gender balance, Book Review, Summer 83 No. 31
employment in the laws of the Islamic Republic of Iran. In fact, staff regulations are derived from laws of occupation and staff regulations are related to planning and bills, which are approved by government and parliament and especially are for those who are working for the government and judicial system.

A) Similarities

1. Creating job and occupation opportunities are much emphasized in international documents. Since 1943, Iran also has focused on women in Iran laws and regulations and later years, studying the laws relating to women has completed them over time, this trend is also seen in international documents.

b) The differences in Iran's staff regulations and international documents on creating equal employment opportunities for women:

1. While noting to create jobs and employment opportunities in general, the international documents consider all occupations, whether governmental or private and the other employee service is no different to the rules and regulations.

But in Islamic Republic of Iran, different rules and regulations have adopted for different organs, for example, the Army Staff Regulations, Staff Regulations in Corps and etc.

2. International law does not make exceptions for hiring women, but Iran's domestic laws are allowed some exceptions to hire women. For example, in an army, corps or police force, Staff Regulations, women is applied to health care. Or there is no difference in judging between men or women in international documents but according to the law of election of judges of justice, in Iran, women can only be employed in “counselor Administrative Justice Court posts, special civil courts, examining judge, legal studies and judiciary legislation Offices, supervision of minors Office, the advisor of the Legal Department and other agencies.”

a) Judgment

In judgment matter, the principle of one hundred and sixty-third constitution has upheld characteristics and circumstances of judge in accordance with the principles of jurisprudence by law. In implementation of mentioned principle, the single article has prescribed the law of election of justice: “Judges are elected among eligible men.”

However, sentencing and the presidency of the Courts are still monopolized by men.

b) Membership in armed forces

Women membership in the army encountered legal obstacles in Republic of Islamic of Iran Law System.

According to Article 32 of the Army Act in Armed Forces “Army may only employ women for health care occupations," or they cannot be employed in corps regulations, unless their presence is unavoidable for some occupations. However, women are excluded from employment in specific military occupations.

c) Recommendations and resolutions

What is certain, women's entrance in judicial and military occupations is not in conflict with Islamic law. Today, women are excluded from the judgment in Oman, United Arab Emirates, Qatar, Kuwait, Saudi Arabia and Jordan but women have relied on the bench of judges in Tunisia, Algeria, Morocco, Malaysia, Iraq and Syria. In Iran, they disagree with each other only about prohibition of a woman's judgment and also in some cases, grand ayatollahs publish specific comments. Ayatollah Sheikh Yousef Sanei have said on this issue” I believed about judgment matter, and I do believe now and if I dare I say

\[2\] Reports of women international conferences 1975-1980

\[3\] Adopted 4.5.1982

\[4\] Mehrangiz Kareh, elimination of discrimination against women, Qatreh publication, Tehran 2000, first edition, p. 274
being men is not necessary, women can judge as well.” So resolving the conflict in the judgment of women is possible despite legal agreement comments.

Second: education right

The education right has been mentioned in international instruments in two categories:

1- Education
2- Vocational training

Education right in main laws approved in the Islamic Republic is totally a right that must be addressed in a separate section. There has not been a direct reference to educations in line with service in studying staff regulations. But according to the internal by-laws of each organ, this right has been considered for them, but it is not sufficient. The numbers of girls who are entering the period of study, in education that we looked at it later, are not less than boys and their number is also increasing every day. Girls have the right to continue their study in all disciplines in higher-education courses but in some disciplines. But in some issues such as girls sending abroad to continue their study is inconsistent with international documents. It is recommended that this right also should be reviewed and revised because although the output of higher education for girls is less than boys, but their employment percentage is much lower than boys.

Third: the right to receive equal wage

It is attempted in Staff Regulations of Iran, especially after enforcing County Service Management Code to receive wage equality between men and women, but it can be seen that there are differences between the wage of men and women. For instance, a woman who is not his wife dependents is excluded from receiving certain rights such as the right of dependents. Sometimes a woman's wage in a government office varies greatly from another government office. Some advantages are considered for spouses of veterans over 50% and PTSD veterans Iran wage and for spouses of veterans with psychiatric veterans in Iran's rights for employment, which is the amount of money paid to them entitled nursing based on monthly minimum-wage workers or job hardship is considered for some of the women, for instance, it is still seen that in Police Force, women are paid lower wages compared to men that result in contributing to gender inequality.

A) The Family Allowances

The family allowances or the right for receiving marital allowance for women is recommended and emphasized equal to what men are paid. However, in employments of Iran, most of the women whose husbands are employee, or they are not their dependents, are deprived of this right. This law is clearly inconsistence with international documents in which all employees and working women have to use this right, but it is seen that a large number of female employees of government are deprived of receiving this right, and the amount should also be revised.

Fourth: the right to lack of hard and harmful jobs

Labor rights and staff regulations are both mentioned in international documents and there is no difference between them so it has been addressed in staff regulations of Iran.

However, it is expressed in article 75 of Labor Law that: “doing hard and harmful job and also carrying a load exceeds by hands, without the use of mechanical devices for female workers is banned.”

It seems that this right similar to international documents is accepted in Iran’s domestic law, but sometimes we see that the right women is ignored because they are unaware of their rights, and also they are forced to these hard jobs.

Fifth: the right to leave

As we mentioned, employee’s leaves are divided into several parts:

1. Paid leave
2. Sick leave
3. Unpaid leave
4. Maternity leave
A) Maternity leave
The most controversial leave is maternity leave that has changed during different periods. Maternity leave has changed a lot in order to coordinate with international documents and mothers doing their job during times after giving birth. Maternity leave increased from three months to four months in 1996, and it increased from four months to 6 in 2008. It was decided to increase maternity leave from six months to nine months in 2013, and after it was not approved by the Guardian Council, in 2014 it was approved after reforms. However, according to the legal maternity leave has changed for nine months, some ministries such as education has not implemented that due to the financial burden. There is another law named breastfeeding leave which female employees until the age of 20 months can leave an hour per day to breastfeed their child. According to the above mentioned this clause of leave is exactly consistent with international documents and is not inconsistent with them. But it does not run properly because fashion is escaping the law.

B) Unpaid leave
This leave is for the welfare of women who cannot use paid, sick and maternity leave in any way, which is not mentioned in international documents, but probably it is considered in domestic laws.

Sixth: part-time work for women
This law was passed by Islamic Consultative Assembly in December 1984. It has been discussed how to pass it. Part-time work is a kind of service that working hours are half the hours of a weekly employee of their relevant ministries and institutions. Employees who work part-time continuously receive half fixed salary (the right to job and working). However, the work location allowance, bad weather and lack of utilities are exempted from these restrictions and generally will be paid. Pay hourly and daily working overtime allowance to these women is prohibited and in other cases, they are excluded from certain privileges.

Experts do not agree with each other about the law. Some believe that the law gives women the opportunity to reintegrate their double jobs at home and outside home in a way that they will be partially satisfied. The prevailing theory is that the law in question is one of the obstacles on the way of women's economic participation. There is no rule with this name in international documents and even part-time employment for women is not mentioned that this law conflicts with international law.

Seven: pensions and insurance
In international instruments, the right to the Convention on the Elimination of Discrimination against Women, the most important international documents on women's rights, is discussed. In domestic law, this right has been approved as well. Women can retire with 25 years of service even in domestic rights while men can retire with 30 years of service. This right was also intended for women in early retirement law which men with 25 years of service and women with 20 years of service and five years leniency can be retired.

Another very important item that was added to the retirement was the bonus gratuity upon retirement that was accounted for equally for men and women from 1997 to 1998.

As the men and women have been considered equal in international documents in use of insurance premiums, they are not equal, especially from the perspective of children insurance of female employees in Iran’s law, but it had a financial burden in retirement, including early retirement and has been partially implemented and was not also implemented in some institutions and ministries.

Eighth: the right to have the syndicate and center of industrial unions

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5 Valaie Hamid, the Family Protection Law, Aieen publications, printing, July 2013, p 147

6 Women Part time work
It has been much emphasized in international documents, and it is mentioned based on labor law article in Iran. However, it is not mentioned in employment regulations, and these unions have been established given the importance of trade unions, but many of them have lost their effectiveness in practice or have been shut down indirectly by the government or their presence is very pale and without prosperity like the teachers' union and etc.

Ninth: Tasks
Some tasks have been considered for women in Iran’s employment regulations, which are devoted to women in Iranian law, and yet they are not mentioned in international documents.

Tenth: conclusion
What are concluded from the comparative study of the employment regulations of Iran and international documents is as follows:
1. Employment rights and occupation rights (work) in international documents have come together and wherever occupation is mentioned, employment's rights are considered as well. However, labor and employment rights of individuals are considered separately in the state apparatus in domestic rules of Iran means that workers, factories and public factories are working under the social security and labor laws and employees employed by government are under the laws with the county service management laws. However, there are also specific rules for work in international documents but in all the documents, protocols, recommendations, and meetings, etc. the purpose of employment and work is not only labor in the factories not but also all women working whether in factories or government bodies are considered.
2. Many of the domestic laws of Iran are inconsistent and in conflict with international law, for example, employment in the armed forces and judgment which are against the rules and religious prohibition for women.
3. Iran has not joined to some of the international laws, including the Convention on the Elimination of Discrimination against Women. The existence of discrimination despite different law's approval and lack of women access to high-level and important managerial jobs

In the end, according to various documents on women's rights, particularly about employment and occupation and domestic law of the country on the field of equality and recommendations and supports, unfortunately gender discrimination in all areas, especially employment and occupation is still observed throughout the world. Although international conventions have had very effective role in enlightening public opinion and definitely an introduction to change the false beliefs and ignorant thoughts that have become as popular culture over the centuries. However, it seems culture and understands the value of human beings cannot be dominant, and this belief does not penetrate in nations and governments, on the other hand, women recognize their real identity and dignity and take steps to promote and advance. Therefore, approved conventions, protocols, etc. cannot be useful in this context. However, the equalities of men and women are created when not only people believe the decision of the convention, but also they are effectively executive guarantees, and governments use its positive and helpful points in their domestic laws.

A) Practical suggestion
1. Iran joins to the Convention on the Elimination of Discrimination against Women.
2. With a little contemplation and positive opinion and free of all political, partisan and traditional biases, many rules that cause gender discrimination and inequality can be changed.
3. Create appropriate strategies for informing women of their equal rights with men, providing appropriate programs of mass media, particularly radio and television
4. Guarantee international decisions on equal rights of men and women
B) Research recommendations
1. Study of gender equality in education in staff regulations and international documents
2. Study of gender equality in Iran’s staff regulations and America or Germany or Switzerland or … staff regulations.
3. Study of gender equality in staff regulations of Iran and Asian countries like Korea, Japan and Malaysia.

REFERENCES
4. Note 5 of Notes to the concatenation of five judges selected the Judiciary Adopted 4.5.1982.