



Vol. 4, Issue 1, 29-33, 2017

## Journal of Exploratory Studies in Law and Management

ISSN: 2375-9887

jeslm.worldofresearches.com

### Guarantees of Women's Human Rights in the International Arena

Fahime Haji Alizadeh, Abuzar Salary Far\*, Ahmad Ranjbar  
Department of Law, Bandar Abbas Branch, Islamic Azad University, Bandar Abbas, Iran.

#### ABSTRACT

A review of the International Bill of Human Rights suggests that a history of the development of international instruments for the protection of Women's Rights was developed and approved not dating back more than a century and in all these human rights documents, whether public or private documents, women's political rights are considered and supported. The United Nations support of women's human rights began from the Human Rights Charter. Under Article 1 of the Charter of the United Nations, the United Nations goals are: "increasing international cooperation in promoting respect for human rights and fundamental freedoms for everybody without discrimination on grounds of race, sex, language or religion". The present study seeks the guarantees of women's human rights in the international arena due to the importance of the guarantee in restoration of the rights of individuals and societies.

**Keywords:** Guarantee, Human Rights, Women's Rights, International Law.

#### INTRODUCTION

The universal Declaration of Human Rights is one of the oldest international laws that was enacted after three years of the United Nations establishment in the General Assembly and its aim was the freedom and equality of human rights. It is stated in the first article of the Declaration: "All human beings are born with equal dignity and rights. All are endowed with reason and conscience and etc." (Charlesworth, 1994; Cook, 2012)

In other articles of this Declaration "prohibition of discrimination" (Article 2 and 7 of the Universal Declaration), "right to liberty" (Article 3), "honor and dignity right" (Article 12), "freedom to choose and marriage" (Article 16), "right of livelihood and well-being" (Article 25), "cultural and educational rights" (Article 27) and the like are emphasized (Engle, 1991a, 1991b).

Declaration of Islamic Human Rights, on 6 August 1990 approved at the Foreign Ministerial Meeting of the OIC in Cairo, emphasizes the explicit text of Holy Quran beginning with the assertion that God created man as male and female and classified them into tribes. It is been stated in Article 1 that human beings are one family and they are equal in human dignity and responsibilities and race, language and gender cannot discriminate among them. Also, paragraph A of Article 3 reads: "In the case of the use of force or armed conflict, those who do not participate in it, including old men, women, children, should not be killed" and damaged. In various articles of this Declaration "the right to marry and forming a family", "the equality of human dignity of women and men" (paragraph A of Article 6), "the right of education and training" (paragraph A

\* . Corresponding Author: Salary Far, A.

To cite this article: Haji Alizadeh, F., Salary Far, A., Ranjbar, A. (2017). Guarantees of Women's Human Rights in the International Arena. *Journal of Exploratory Studies in Law and Management*, 4 (1), 29-33.

and B of Article 9), “freedom and lack of exploitation” (paragraph A of Article 11), “the right of residence” (Article 12), “the right of property and the right of housing ”(Article 14 and 15) and many other material and spiritual rights on the natural rights of people are mentioned including the rights of women(Alves, 2000; Engle, 1991a). Due to the fact that human rights and commitment to it requires lawful guarantee, this study seeks the guarantees of women's human rights in the international arena.

## **REPORTING SYSTEM**

According to Article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, Member States undertake to give reports on the legislative, judicial, administrative and other actions undertaken actions in order for the Convention provisions to be implemented effectively(Cook, 2012). Various government reports include:

### **INITIAL REPORT**

It includes general comments in relation to the legislative, judicial and executive system of the country that is presented within one year after the enforcement of the Convention after the entry of each Member State. In this report, the states analyze their domestic laws and regulations in adaptation with the Convention and also explained their position in relation to the possibility of the compensation for the losses of the victim women in the violation of the Convention provisions(Hellum & Aasen, 2013; Tsutsui, Whitlinger, & Lim, 2012). In general, the states provide the Committee with information regarding the development of their judicial and legislative system in the application of the Convention.

### **Periodic reports:**

These reports of states are presented to the committee every four years and includes at least the three following matters (Galey, 1984; Goldfarb & Goldscheid, 2016; Laville, 2017):

A) information on the concluding observations and actions of the Committee on the previous reports of the state and explanations about the impossibility or barriers to implementation of the Convention

B) analytic explanations by the Member State in relation to new legislative measures or other measures regarding the application of the Convention

C) Information regarding the barriers to the access of women to the human rights and their basic freedom in civil, political, economic, social, cultural or any other arena on the basis of equivalence with men and measures to eliminate these barriers.

### **Exceptional reports:**

In accordance with paragraph (B) in clause 1 of Article 18, Member States are obliged to submit a report whenever the Committee applies. These reports are subject to paragraph 5 of Article 48 of the Rules of Procedure of the Committee(Goldfarb & Goldscheid, 2016; Ortoleva & Lewis, 2012).

## **INQUIRY**

The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women enforced on 22 December 2000 has appointed a form of research procedure that enables the Committee to begin research regarding the serious or systematic violations of women's rights(Freeman, Rudolf, & Chinkin, 2012; Frohmader, Dowse, & Didi, 2015; Goldfarb & Goldscheid, 2016; Manjoo & Nadj, 2015).

## **Divorce and the Islamic Sharia**

### **Individual complaints procedures:**

Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women is a human rights treaty that completes the Convention. The Committee is responsible for the consideration of all individual complaints under this protocol (Manjoo & Nadj, 2015; Meyer, 2015). A Member State emphasizes the competence of the Committee to issuance of the theories and suggestions with regard to written complaints relating to violations of the Convention by the approval or accession to the Protocol.

The protocol provides the background for the guarantee of the implementation of the Convention by predicting the individual complaints procedures in cases the State causes the violation of Women's Rights and meet the necessity of more effective compensations in the national arena more than before (Bunch, 1990).

Individuals and groups of individuals are able to complaint against a state that has ratified the Convention and the Optional Protocol. Some of the most important conditions include the following complaints (Holtmaat, 2015; Hoq, 2000; Obiora & Whalen, 2015):

A) The complaint must be in written form and be set in one of the six official languages of the United Nations.

B) The complaint must be related to the Member State of the Convention or the Optional Protocol.

C) One should claim to be the victim of one of the violations of the rights enshrined in the Convention.

D) The plaintiff should present the evidence and the positive documents of his claim (related to the events) to the Committee and explain his claim that which regulation of the Convention is violated by the Member State.

E) The complaint should include information about measures taken at the national level to compensate for the initial visit. This means that the action must be brought in a civil court first, but because of the lack of effective judicial remedies, unavailability or the irrationality of the case, the compensation has not been realized.

The method of the handling of the committee is so that if the working group of the Committee on the complaints recognizes the record of the complaint, they will inform the Member State and that government has 6 months to be responsive both in terms of admissibility and nature. If the committee determines that the claim is unacceptable, the litigation ends. In addition, the Committee will present its ideas eventually after the inspection of the complaints and the evidence and the documents of both parties (an individual or a group of individuals as victim and the Member State) (Goldfarb & Goldscheid, 2016; Merry, 2016; Randall & Venkatesh, 2015).

### **Special Rapporteur on Violence against Women**

Commission on Human Rights decided to appoint a special rapporteur on violence against women, its causes and its consequences according to the statement of 1994.45 enacted in March 1994. The mission of the special rapporteur in 2003 was expanded through the statement of 2003.45 at the fifty-ninth session of the Commission on Human Rights and from March 2006 (by the decision of 1.102) the Special Rapporteur reports to the Human Rights Council (Goldfarb & Goldscheid, 2016).

### **Special Rapporteur's missions are:**

A) Search and receive information on violence against women, its causes and consequences from governments, treaty foundations, specialized agencies, other special rapporteurs on various issues of human rights and governmental and nongovernmental organizations, including women's organizations, and should be responsive in an effective way (Merry, 2016).

B) Proposed acts, methods and tools at the national, regional and international levels to eliminate violence against women and its causes and to compensate results of violence.

C) Work closely with other special rapporteurs, special representatives, working groups and independent experts of the Council of Human Rights and institutions of a treaty, taking into account the Commission actions in line with reports on human rights violations of women and work closely with the Commission on the Status of Women to achieve its goals and tasks.

**Special Rapporteur considers the following sources to fulfill its obligations:**

The necessary correspondences and relationships with governments regarding the violation of women's rights, individual complaints in cases of women's rights violation, periodic and initial reports of States and inspection of different countries(Manjoo & Nadj, 2015).

## CONCLUSION

Oppression and abuses imposed on women have led the international and domestic legislators to enact laws and regulations in this direction to prevent the oppression imposed on them, support the rights of women and place her in the same position as men. The rules, according to the philosophical basis of its own, were introduced in the West and they were not generally accepted in other communities with contradictory philosophical foundations and infrastructure with the West. Iran's laws on women's rights are dependent to Islamic jurisprudence with Shiite religious affiliation to a great extent. In Islamic legal system, the audience of the rules and regulations are human beings and Islamic rules are not limited to men or women. Therefore, in all the regulations that the audience is the human, there is no difference between men and women. But in some rules in which the human is the audience with regard to his special characteristics, the material and spiritual features and characteristics, circumstances and the temporal and spatial conditions are considered. In fact, the differences in natural these characteristics and conditions cause the enactment of the different and dissimilar laws and regulations.

## REFERENCES

- [Alves, J. L. \(2000\). The declaration of human rights in postmodernity. \*Human Rights Quarterly\*, 22\(2\), 478-500 .](#)
- [Bunch, C. \(1990\). Women's rights as human rights: Toward a re-vision of human rights. \*Human Rights Quarterly\*, 12\(4\), 486-498 .](#)
- [Charlesworth, H .\(1994\) .What are 'women's international human rights'? \*Human rights of women: National and international perspectives\*, 58, 61.](#)
- [Cook, R. J. \(2012\). \*Human rights of women: National and international perspectives\*: University of Pennsylvania Press.](#)
- [Engle, K .\(1991a\). Female subjects of public international law: human rights and the exotic other female. \*New Eng. L. Rev.\*, 26, 1509.](#)
- [Engle, K. \(1991b\). International human rights and feminism: When discourses meet. \*Mich. J. Int'l L.\*, 13, 517.](#)
- [Freeman, M. A., Rudolf, B., & Chinkin, C. \(2012\). \*The UN convention on the elimination of all forms of discrimination against women: A commentary\*: Oxford University Press.](#)
- [Frohman, C., Dowse, L., & Didi, A. \(2015\). Preventing violence against women and girls with disabilities: Integrating a human rights perspective. \*Hum. Rts. Defender\*, 24, 11 .](#)
- [Galey, M. E. \(1984\). International enforcement of women's rights. \*Human Rights Quarterly\*, 6\(4\), 463-490.](#)
- [Goldfarb, S., & Goldscheid, J. \(2016\). International Human Rights Law on Violence Against Women and Children and Its Impact on Domestic Law and Action \*Women and Children as Victims and Offenders: Background, Prevention, Reintegration\* \(pp. 3-45\): Springer.](#)

## Divorce and the Islamic Sharia

- [Hellum, A., & Aasen, H. S. \(2013\). \*Women's human rights: CEDAW in international, regional and national law\* \(Vol. 3\): Cambridge University Press.](#)
- [Holtmaat, H. \(2015\). CEDAW: A Holistic Approach to Women's Equality and Freedom .](#)
- [Hoq, L. A. \(2000\). The Women's Convention and Its Optional Protocol: Empowering Women to Claim Their Internationally Protected Rights. \*Colum. Hum. Rts. L. Rev.\*, 32, 677.](#)
- [Laville, H. \(2017\). The National Women's Committee on Civil Rights \*Organized White Women and the Challenge of Racial Integration, 1945-1965\* \(pp. 151-186\): Springer.](#)
- [Manjoo, R., & Nadj ,D. \(2015\). 'Bridging the Divide': An Interview with Professor Rashida Manjoo, UN Special Rapporteur on Violence Against Women. \*Feminist Legal Studies\*, 23\(3\), 329-347 .](#)
- [Merry, S. E. \(2016\). Cultural Dimensions of Power/Knowledge: The Challenges of Measuring Violence against Women. \*Sociologie du Travail\*, 58\(4\), 370-380.](#)
- [Meyer, E. \(2015\). Designing Women: The Definition of Woman in the Convention on the Elimination of All Forms of Discrimination against Women. \*Chi. J. Int'l L.\*, 16, 553.](#)
- [Obiora, L. A & ,Whalen, C. \(2015\). What is Right with Africa: The Promise of the Protocol on Women's Rights in Africa. \*The Transnational Human Rights Review\*, 2\(1\), 153-167 .](#)
- [Ortoleva, S., & Lewis, H. \(2012\). Forgotten sisters-A report on violence against women with disabilities: an overview of its nature, scope, causes and consequences.](#)
- [Randall, M., & Venkatesh, V. \(2015\). Criminalizing Sexual Violence Against Women in Intimate Relationships: State Obligations Under Human Rights Law. \*American Journal of International Law\*, 109, 189-196.](#)
- [Tsutsui, K., Whitlinger, C., & Lim, A. \(2012\). International human rights law and social movements: states' resistance and civil society's insistence. \*Annual Review of Law and Social Science\*, 8, 367-396 .](#)