

# The Protection of the Rights of Women in International Law

## حماية حقوق المرأة في القانون الدولي

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Received: 2023-01-30

Accepted: 2023-05-07

Published : 2023-06-10

**Abstract:** Women's rights received a great deal of attention, particularly after the foundation of the United Nations in 1945. The Secretary General of the Organisation adopted a wide range of global norms and international standards such as declarations and legal binding conventions that recognize the full rights and freedom of women worldwide. It strongly affirmed that the empowerment of women is a prerequisite to achieve sustainable development and maintain peace and security in the world.

However, despite the global efforts of human rights movement that fight hard for the respect and dignity of women to achieve gender equality and same opportunities between man and woman, there are still many places across the globe where women are denied their fundamental rights .They are also facing gender based violence, exclusion, harassment, and discrimination which affect deeply Women and undermine their rights.

**Keywords:** women, rights, United Nations, protection, conventions, violations.

**ملخص:** حظيت حقوق المرأة باهتمام متزايد على الصعيد الدولي ، ولا سيما بعد تأسيس منظمة الأمم المتحدة عام 1945. وفي هذا الإطار اعتمدت الجمعية العامة لهذه المنظمة مجموعة واسعة من القواعد والمعايير الحقوقية الدولية كإعلانات والاتفاقيات الملزمة، و التي اعترفت للمرأة في مختلف بقاع الأرض بالحقوق والحريات الكاملة. وأكدت الهيئة الاممية في اكثر من مناسبة، أن تمكين المرأة شرط أساسي لتحقيق التنمية المستدامة والحفاظ على السلام والأمن في العالم.

ومع ذلك ، على الرغم من جهود الحركات الحقوقية الدولية المدافعة عن حقوق الإنسان، و التي تكافح بجد وعزم من أجل كفالة احترام المرأة .وصون كرامتها، وتحقيق مبدأ المساواة بين الجنسين واتاحة الفرص المتكافئة لهما، إلا أن العنف والإقصاء والتحرش والتمييز لايزال يظال النساء في جميع أنحاء العالم ،مما يسبب في حرمانهن من حقوقهن الأساسية ، ويؤثر على مركزهن الاجتماعي و يقوض سبل ترقيتهن.

**الكلمات المفتاحية:** المرأة ، الحقوق ، الأمم المتحدة ، الحماية ، الاتفاقيات ، الانتهاكات.

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## **Introduction:**

At the end of the Second World War, the international community affirmed loud and clear that all human rights are universal, indivisible and interrelated. Nations from various parts of the world solemnly proclaimed their faith in fundamental human rights, dignity and the worth of the human person and the equal rights of men and women.

Women's rights have been the subject to a series of international declarations and human rights conventions. The declarations, which constitute an important step in the promotion of rights, are not binding but simply contained recommendations qualifying discrimination against women as an unjust and incompatible with human dignity. They have often been followed by conventions with legally obligatory or binding texts, generating commitments to protect fundamental rights of women and requiring gender equality.

After the adoption of the Universal Declaration of human rights, the Commission on Human Rights initiated the drafting of several legally binding human rights documents such as the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, which both constitute, with the Universal Declaration, what experts in international law named the International Bill of Human Rights.

In 1967, the United Nations General Assembly adopted the Declaration on the Elimination of Violence against Women, which affirmed that violence against women constitutes a violation of human rights and called on Member States to abolish laws, customs, and regulations that maintain discriminatory practices against women to ensure the legal equality between men and women.

In 1979, the Convention on the Elimination of All Forms of Discrimination against Women set up a categorical rights system for women reflecting a comprehensive approach to women's rights. The Convention clearly defines the nature and repercussions of discrimination based on sex, and oblige States parties to take the necessary measures to eliminate discrimination based on gender. In addition, the Convention on the Rights of the Child and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families also prohibit discrimination based on sex. The Convention on the Rights of Persons with Disabilities recognizes that women with disabilities face multiple forms of discrimination, and obliges States Parties to take all appropriate measures to ensure the full development of women.

Based on what has been said previously: we formulate the research problem as follow:

Does the International Human Rights Law guarantee the adequate protection of women's rights?

### **1. The Protection of Women's Rights in International Human Rights Declarations**

we discuss the protection of women's rights through the following human rights declarations: the Declaration on the Elimination of Discrimination against Women, the Declaration on the Protection of Women and Children in Emergency and Armed Conflict, the Declaration on Women's Participation in Promoting International Peace and Cooperation, th Declaration on the Elimination of Violence against Women , and finally the Beijing Declaration and Platform for Action .

### **1.1. The Declaration on the Elimination of Discrimination against Women 1967**

The Declaration on the Elimination of Discrimination against Women<sup>1</sup> is one of the important human rights declarations<sup>2</sup> that recognized a wide range of categories of rights and freedoms such as civil and political, as well as economic social and cultural rights. It was drafted by the Commission on the Status of Women<sup>3</sup> in 1967 .The women's declaration paved the way for the Convention on the Elimination of All Forms of Discrimination against Women which was adopted later on. The declaration included a preamble and several rights. It maintained that discriminatory practices against women are inadmissible and inconsistent with human dignity .They represent, in this perspective, a real obstacle to the full empowerment of women and their economic, social and cultural development .Consequently, it banned discrimination and recognized the principle of equal rights for men and women.<sup>4</sup>

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<sup>1</sup> The Declaration on the Elimination of Discrimination against Women was adopted and made public, in accordance with United Nations General Assembly Resolution 2263 D 22 of November 7, 1967.

<sup>2</sup> Human rights declarations are international texts that contain the basic principles related to a specific topic. It is worth noting that human rights declarations are not binding, however, they have just a moral force, and sometimes they represent the first step towards establishing binding legal rules through international treaties.

<sup>3</sup> The Commission on the Status of Women (CSW) is a technical committee of the Economic and Social Council of the United Nations. It is a global policy-making body dedicated exclusively to the promotion of gender equality and the empowerment of women. The Commission was established by Economic and Social Council Resolution No. 11 of June 21, 1946 to make recommendations regarding the promotion of women's rights in the political, civil, economic, social and educational fields.

<sup>4</sup> Preamble to the Declaration on the Elimination of Discrimination against Women of 1967 .

The declaration stated that discrimination against women constitutes an assault on human dignity<sup>1</sup> and called for the abolition of all sorts of laws and customs that maintain discrimination against women .Additionally, it urged States to ratify and implement human rights instruments in order to combat discriminatory practices.<sup>2</sup> The declaration recognized certain fundamental right namely the right to education<sup>3</sup> , the right to vote, the right to run public office<sup>4</sup> and guarantee women's equality with men in civil matters such as marriage and divorce.<sup>5</sup>

### **1.2. Declaration on the Protection of Women and Children in Emergency and Armed Conflict 1974**

During the seventies of the twentieth century, the General Assembly of the United Nations adopted a Declaration on the Protection of Women and Children in Emergency and Armed Conflict.<sup>6</sup> This declaration is regarded as essential international conventions that ensure the protection of human rights in times of armed conflict. The General Assembly has expressed, through this declaration, its deep concern about the suffering of women and children belonging to the civilian population who are often during the times of emergency and armed conflict, the victims of violent and inhumane acts .The General Assembly denounced severely the repeated violations of fundamental freedoms and human dignity, especially as the repressive forces continue to infringe international

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<sup>1</sup> Art 1 of the Declaration on the Elimination of Discrimination against Women of 1967 .

<sup>2</sup> *Ibid.*, Art 2.

<sup>3</sup> *Ibid.*, Art 3.

<sup>4</sup> *Ibid.*, Art 4.

<sup>5</sup> Bistra Netkova ,Gender and Right to Non-discrimination in International Human Rights, *Journal of Liberty and International Affairs* | Vol. 1, No. 3, 2016,p.24

<sup>6</sup> The United Nations General Assembly adopted a Declaration on the Protection of Women and Children in Emergency Situations and Armed Conflict and made it public by the Resolution 3318 D-29 of 14 December 1974.

humanitarian law. It also urged States to assume their responsibilities with regard to the protection of women who play an important role in society, especially in the education of children.<sup>1</sup>

On the other hand, the General Assembly called on all Member States to take appropriate measures to avoid attacks and bombardment on civilian population causing untold suffering, principally to women and children who compose the majority of the population.<sup>2</sup> It also asked States to forbid the use of chemical and bacteriological weapons during military operations which represent a flagrant violation of the Geneva Protocol of 1925, the Geneva Conventions of 1949 and the principles of International Humanitarian Law due to the heavy losses to the civilian population.<sup>3</sup> Moreover, it called on States to respect their obligations under the Geneva Protocol of 1925 and the Geneva Conventions of 1949, as well as other international instruments related to human rights in times of armed conflict.<sup>4</sup>

It urged the countries implicated in armed conflict or military operations to make the required efforts to spare women and children the scourge of war and to take all necessary measures to ensure the prohibition of persecution, torture, retaliation, degrading treatment and violence, especially for the civilian population including women and children.<sup>5</sup>

The declaration criminalizes all forms of oppression , atrocity and cruel and treatment towards women and children, in conjunction

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<sup>1</sup> Preamble to the Declaration on the Protection of Women and Children in Emergencies and Armed Conflicts .

<sup>2</sup> Art 1 of the Declaration on the Protection of Women and Children in Emergencies and Armed Conflicts.

<sup>3</sup> *Ibid.*, Art 2.

<sup>4</sup> *Ibid.*, Art 3.

<sup>5</sup> *Ibid.*, Art 4.

with imprisonment, torture, shootings, mass arrests, collective punishment, destruction of homes, and forced displacement by belligerents during military operations or in occupied territories.<sup>1</sup> It strongly deplored the deprivation of women and children ,who are part of civilian population, from shelter, food, medicine, assistance and inalienable rights, in accordance with the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on economic, social and cultural rights.<sup>2</sup>

### **1.3. Declaration on Women's Participation in Promoting International Peace and Cooperation 1982**

The Declaration on the Participation of Women in Promoting International Peace and Cooperation<sup>3</sup> encouraged all efforts to involve women in promoting international peace and cooperation and to guarantee their legitimate right to participate, on an equal footing with men, in the civil, political, economic, social and cultural fields. Over and above, it stressed the importance to give women the same opportunities as men to participate in the decision-making, and reinforce their role within the family.<sup>4</sup>

The General Assembly recalled that the Universal Declaration of Human Rights<sup>5</sup> recognized human dignity and equal and inalienable

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<sup>1</sup> *Ibid.*, Art 5.

<sup>2</sup> Karima Bennouna, Do We Need New International Law to Protect Women in Armed Conflict, *Case Western Reserve Journal of International Law*, Vol 38 No2 , 2006,p.368.

<sup>3</sup> The Declaration on the Participation of Women in the Promotion of International Peace and Cooperation was adopted and made public by General Assembly resolution 63/37, on 3rd December 1982.

<sup>4</sup> Jana Krause *et al*, Women's Participation in Peace Negotiations and the Durability of Peace, *International Interactions*, Vol. 44, No. 6, 2018, p.987.

<sup>5</sup> The Universal Declaration of Human Rights was adopted and made public by a General Assembly resolution UN 217 A (D-3) on December 10, 1948.

inalienable rights of all human beings to promote justice and peace in the world. Furthermore, it insisted that both International Covenants on Human Rights<sup>1</sup> acknowledged the right of men and women to enjoy, on an equal basis, all economic, social, cultural, civil and political rights. It deplored the regression in achieving equality between men and women, as there was still a great deal of discrimination against women, which hindered their effective participation in the promotion of international peace and cooperation and the contribution to the real reshaping of international economic relations.<sup>2</sup>

The declaration states that men and women have a common interest in contributing to international peace and cooperation.<sup>3</sup> To reach this purpose, it is imperative to strengthen women's participation on an equal footing with men in the civil, political, economic, social and cultural affairs of society.<sup>4</sup> More importantly, it encouraged the active participation of women in various social issues to establish international peace and friendly relations among nations.<sup>5</sup>

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<sup>1</sup> The International Covenant on Civil and Political Rights was adopted and offered for signature, ratification and accession by United Nations General Assembly Resolution 2200 A (XXI) of December 16, 1966, and entered into force on March 23, 1976, in accordance with the provisions of article 49. The International Covenant on Economic, Social and Cultural Rights was adopted and opened for signature, ratification and accession by United Nations General Assembly Resolution 2200 A (XXI) of December 16, 1966, and entered into force on January 3, 1976, in accordance with article 27.

<sup>2</sup> Preamble to the Declaration on the Participation of Women in Promoting International Peace and Cooperation .

<sup>3</sup> Art 1 of the Declaration on the Participation of Women in Promoting International Peace and Cooperation .

<sup>4</sup> *Ibid.*, Art 2.

<sup>5</sup> *Ibid.*, Art 3.

It also affirmed that the full participation of women in the promotion of international peace and cooperation collaborate to the elimination of racial discrimination, neo-colonialism, occupation, foreign domination and interference in the internal affairs of States.<sup>1</sup> In the same vein, the declaration urged States to take Special measures at the national and international levels in order to support international efforts to maintain peace worldwide and to promote international cooperation.<sup>2</sup>

It also called on all States to take appropriate measures to intensify national and international efforts regarding women's participation in civil, political, economic, social and cultural affairs, through an equitable distribution of roles between men and women within the family and in society by providing equal opportunity for women to take part in the decision-making.<sup>3</sup>

In this context, the declaration called on States to take all appropriate procedures to value the participation of women in promoting international peace and cooperation and solving other national and international problems.<sup>4</sup> Besides, the declaration advocated solidarity and support to women who are victims of mass and flagrant violations of human rights such as apartheid, all forms of racism and racial discrimination, colonialism, foreign occupation and domination and other gross violations of human rights.<sup>5</sup> To that end, the declaration recommended States to guarantee the freedom of thought, conscience, communication,

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<sup>1</sup> *Ibid.*, Art 4.

<sup>2</sup> Art 5 of the Declaration on the Participation of Women in Promoting International Peace and Cooperation .

<sup>3</sup> *Ibid.*, Art 6.

<sup>4</sup> *Ibid.*, Art 7.

<sup>5</sup> Christine Chinkin & Hilary Charlesworth, Building Women into Peace, The International Legal Framework, *Third World Quarterly* ,Vol 27, No. 5, 2006, P.941.

and movement without discrimination on grounds of race, political or religious belief, language or ethnic origin.<sup>1</sup>

On the other hand, the declaration called on States to provide opportunities for all women so as to promote cooperation, economic development, and social progress through an equitable representation of women within governmental and non-governmental institutions and specialized agencies of the United Nations.<sup>2</sup>

#### **1.4. Declaration on the Elimination of Violence against Women 1993**

During the celebration of March 8, corresponding to the International Women's Day, the former Secretary-General, Boutros Boutros-Ghali, informed the international community that he requested Special Commission to start drafting a new Declaration that outlines the human rights of women. He insisted that protecting women's rights is a main preoccupation for the United Nations, governments and the humanity as a whole.<sup>3</sup>

The Declaration on the Elimination of Violence against women embodied<sup>4</sup> the rights and principles contained in the Universal Declaration of Human Rights. The General Assembly expressed its deep concern about violence against women, which constitutes an obstacle to achieve equality, development and peace, as recognized in the Nairobi Strategies for the empowerment of

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<sup>1</sup> Mala Htun & Francesca R. Jensenius, Fighting Violence Against Women, Laws, Norms and Challenges Ahead, *Daedalus*, Winter 2020, Vol. 149, No. 1, p.150

<sup>2</sup> Art12 of the Declaration on the Participation of Women in Promoting International Peace and Cooperation.

<sup>3</sup> Judith Gardam & Hilary Charlesworth, Protection of Women in Armed Conflict, *Human Rights Quarterly*, Vol. 22, No. 1 Feb., 2000, p153.

<sup>4</sup> The Declaration on the Elimination of Violence against Women was adopted and made public by United Nations General Assembly Resolution No. 48/104 of December 20, 1993.

Women, which recommended States to combat violence against women. It is worth noting that the international community has observed 25<sup>th</sup> November as a day of the Elimination of Violence against since 1981.<sup>1</sup>

The declaration maintained that women have the right to enjoy, on an equal basis with men, all human rights and fundamental freedoms reflecting the principal of complementarity and indivisibility of human rights.<sup>2</sup> It called on States to condemn severely the violence against women in all its forms, and to prevent, investigate and punish all acts of violence targeting women .For that purpose, The States should take into account the contributions of non-governmental organizations, particularly the institutions concerned with the issue of violence against women, and recognize the significant role played by feminist movement worldwide to eradicate gender based violence.<sup>3</sup>

The declaration asked the States to strengthen international and regional cooperation aiming to fight violence through exchanging experiences and financing programs related to the elimination of violence against women. It called also them to attend meetings and intensify seminars, in order to raise awareness among all persons about the issue of violence against women and find the efficient means to eradicate it.<sup>4</sup>

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<sup>1</sup> Caroline Sweetman, Violence against Women, Published by Oxfam, Oxford, 2004, p.13.

<sup>2</sup> Art 3 of the Declaration on the Elimination of Violence against Women.

<sup>3</sup> *Ibid.*, Art 4.

<sup>4</sup> *Ibid.*, Art 5.

### **1.5. Beijing Declaration and Platform for Action 1995**

Certain experts considered the Beijing Declaration and Platform for Action<sup>1</sup> as an international charter for women's rights. According to them, it laid down the basic principles to empower women in various social, political, economic areas all over the world. In this context, the Beijing conference declared that equality between women and men is a prerequisite for sustainable development, peace and democracy. It recommended governments to provide equal chance for them to access to all resources, and to share familial responsibilities and harmonious partnership which are essential for their well-being for the promotion of human rights.<sup>2</sup>

The governments that took part in the Fourth World Conference on Women held in Beijing in September 1995, coinciding with the fiftieth anniversary of the foundation of the United Nations, decided to promote rights and living conditions of women around the world<sup>3</sup> and to improve their social situation that allow them to enjoy their basic rights and fundamental freedoms, and fight discrimination against women.<sup>4</sup>

The Participants noted that the status of women has improved in some important areas over the past decade, but this progress has been uneven. That is to say, that gender inequality still exists which has dire consequences on the well-being of all mankind.<sup>5</sup> The participants remarked that the social and economic situation in various countries has been exacerbated by the high rate of extreme poverty that affects lives of the majority of the world's population,

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<sup>1</sup> The Beijing Declaration and Platform for Action was issued by a decision of the World Conference on Women held in Beijing during the period 4-15 September 1995.

<sup>2</sup> Preamble to the Beijing Declaration and Platform for Action .

<sup>3</sup> Art 3 of the Beijing Declaration and Platform for Action .

<sup>4</sup> Art 4 of the Beijing Declaration and Platform for Action .

<sup>5</sup> *Ibid.*, Art 5.

especially women and children all over the world<sup>1</sup>, so, governments are asked to take urgent actions, without delay, through cooperation and solidarity whose positive results will appear in the near future.<sup>2</sup>

The participants in the International Conference on Women reaffirmed their commitment to achieve equal rights for men and women according to the principles enshrined in the United Nations Charter and the Universal Declaration of Human Rights, and other international human rights instruments, such as the Convention on the Rights of the Child, as well as the Declaration on the Elimination of Violence against Women and the Declaration on the Right to Development.<sup>3</sup>

The governments also pledged to ensure the full realization of the rights of women and girls, as an integral and inalienable part of all human rights and fundamental freedoms.<sup>4</sup> They also agreed to guarantee the empowerment and of women and protect their freedom of thought, conscience, religion and belief. They also, committed themselves to provide all necessary means that allow women to realize their full potential inside the society<sup>5</sup>, and promote their full involvement, on equal terms with men, in all areas of social life including the access to power.<sup>6</sup>

The stakeholders reaffirmed their obligation to provide the same opportunities for both man and women through harmonious partnership between them for the well-being of their families and the promotion of social values.<sup>7</sup> The government reassured that

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<sup>1</sup> *Ibid.*, Art 6.

<sup>2</sup> *Ibid.*, Art 7.

<sup>3</sup> *Ibid.*, Art 8.

<sup>4</sup> *Ibid.*, Art 9.

<sup>5</sup> Art 12 of the Beijing Declaration and Platform for Action .

<sup>6</sup> *Ibid.*, Art 13.

<sup>7</sup> *Ibid.*, Art 15.

the equality of opportunities between women and men, as actors and beneficiaries of sustainable development, are prerequisite to eradicate poverty and reinforce democracy and social Justice.<sup>1</sup>

To sum up, we can say that declarations are not legally binding documents; nevertheless, they have contributed greatly to define rights and clarified universal principles and human rights standards which preceded international conventions that imposed obligations on States to protect women's rights without distinction.

## **2. The protection of women's rights in international Conventions**

In this section, we deal with women's rights as disposed in the following conventions: the Convention on the Political Rights of Women, the Convention on the Elimination of All Forms of Discrimination against Women, the American Convention on the Prevention, Punishment and Eradication of Violence against Women, the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, and finally the Maternity Protection Convention.

The United Nations adopted several human rights conventions providing, for certain categories or social groups such as women, a wide range of rights. As it was mentioned before, the declarations were just the first step that smoothed the path for legally binding instruments that obliged States to protect women's rights including civil and political rights as well as economic, social and cultural.<sup>2</sup>

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<sup>1</sup> *Ibid.*, Art 16.

<sup>2</sup> Rebecca J. Cook, Effectiveness of the Beijing Conference Advancing International Law Regarding Women, *Proceedings of the Annual Meeting ,American Society of International Law*, Vol 91 , April,9,1997,p.315.

## 2.1. Convention on the Political Rights of Women 1952

The Convention on the Political Rights of Women<sup>1</sup> is the first international specific treaty that acknowledged the political rights of women. It came as a result of an immense progress made throughout the world during the post-war period to set standards for non-discrimination against women and reduce inequalities. It also obliged governments to protect the political rights of all citizens. This convention codified the basic international standards for women's political rights inspired from the Universal Declaration of Human.<sup>2</sup>

The contracting parties to this convention recognized that everyone has the right to participate in the government of his/her country, either directly or through freely chosen representatives, and to hold public offices .The convention also acknowledged the equality between men and women in the enjoyment and exercise of political rights, in conformity with the principles of the Charter of the United Nations and the Universal Declaration of Human Rights.<sup>3</sup>

The convention stipulates that women have the right to vote in all elections without any discrimination.<sup>4</sup> Moreover, it recognizes the right of women to be represented in the social and political institutions without any form of favouritism.<sup>5</sup> In order to protect the rights and freedoms recognized for women, the convention

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<sup>1</sup> The convention on the political rights of women was adopted and offered for signature, ratification and accession by United Nations General Assembly Resolution 640 (D-7) of December 20, 1952, which entered into force on July 1954, in accordance with the provisions of article 6.

<sup>2</sup> Mary Ann Glendon, *The Rule of Law in the Universal Declaration of Human Rights*, *Northwestern Journal of International Human Rights*, Vol 2, No.1, 2004, p.12.

<sup>3</sup> Preamble to the Convention on the Political Rights of Women .

<sup>4</sup> Art 1 of the Convention on the Political Rights of Women .

<sup>5</sup> *Ibid.*, Art 2.

recommended States Parties to send their communication and complaints, in case of violation of these rights, to the supervisory body in accordance with the aforementioned provisions.<sup>1</sup>

## **2.2. Convention on the Elimination of All Forms of Discrimination against Women 1979**

The Convention on the Elimination of All Forms of Discrimination against Women<sup>2</sup> is considered as a comprehensive international instrument for women's rights, which came to back the efforts of the United Nations Commission on the Status of Women and feminist organizations interested in women's affairs over a period of thirty years, which shed light on the difficulties faced by women, and reflected the aspirations and concerns of women.

This agreement called for absolute equality between women and men in all fields as well as the abolition of all forms of discrimination against women and supported their political, economic and social empowerment. It also dealt with sensitive issues related to the family such as marriage, divorce, birth control and so on.<sup>3</sup>

The members States reprimanded the widespread discrimination against women, and asserted that unfair treatment between social categories constitutes a violation of the principles of equal rights

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<sup>1</sup> Rebecca J. Cook ,International Human Rights Law Concerning Women, Case Notes and Comments, *Vanderbilt Journal of Transnational Law* Vol 23, No 4 1990,p.801.

<sup>2</sup> The Convention on the Elimination of All Forms of Discrimination against Women was adopted and offered for signature, ratification and accession by United Nations General Assembly Resolution 34/180 of December 18, 1979, and entered into force on September 3, 1981, in accordance with the provisions of Article 27/1.

<sup>3</sup> Marta R. Vanegas & Lisa R. Pruitt, CEDAW and Rural Development, Empowering Women with Law from the Top down, Activism from the Bottom Up, *Law Review*, Vol. 41, No. 2, 2012, p.267.

and respect for human dignity, and it is a real obstacle to the participation of women, on an equal basis with men, in the political, social, economic and cultural life of their country, recognising that the discrimination impedes the growth of the prosperity of society and the family.<sup>1</sup>

The Convention defines the term “discrimination against women” as any distinction, exclusion or restriction made on the basis of gender aiming to impair women’s status which hinders their abilities to defend their rights, or thwarts their enjoyment of human rights, regardless of their marital status.<sup>2</sup> The States Parties agreed to take all appropriate measures, including legislative to ensure the full development and advancement of women. The objective of the previous actions is to guarantee the enjoyment of all human rights and fundamental freedoms for women.<sup>3</sup>

The members States have undertaken all measures with the view to eliminate discrimination against women, and to guarantee to them equal rights with men in the field of education, by providing same opportunities to benefit from vocational training. They pledged to provide education of quality by revising textbooks and school programs and adapting teaching methods to real situations, and granting them scholarships to continue their studies.<sup>4</sup>

The Convention obliged the States parties to take all appropriate measures to eliminate discrimination against women in the field of employment, in particular the right to work as an inalienable right for all human beings, and the right to enjoy the same employment

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<sup>1</sup> Preamble to the Convention on the Elimination of All Forms of Discrimination against Women.

<sup>2</sup> Art 1 of the Convention on the Elimination of All Forms of Discrimination against Women.

<sup>3</sup> *Ibid.*, Art 3.

<sup>4</sup> Art 10 of the Convention on the Elimination of All Forms of Discrimination against Women.

opportunities, the right to freely choose the profession and the type of work, and the right to social and professional promotion.<sup>1</sup>

In the field of health, the States Parties were engaged to undertake all suitable means to eliminate discrimination against women regarding the access to medical care and health facilities, including services related to family planning, pregnancy and childbirth, as well as adequate nutrition.<sup>2</sup>

The agreement addressed the specific problems facing rural women. In this respect ,the convention obliged States to take relevant measures to eliminate discrimination against women in rural areas , by encouraging their participating in the elaboration and implementation of development planning, at all levels and enjoying adequate living conditions, especially with regard to housing, health facilities, electricity and water supply, transportation, and communications.<sup>3</sup>

In order to assess the progress achieved by States, the convention established a Committee on the Elimination of Discrimination against Women as a monitoring body. It consisted of experts of moral stature and high competence in the field to which this Convention applies. They are elected by the States Parties, with respect to the principle of keeping balance between Geographical areas and the representation of various major legal systems.<sup>4</sup>

In sum, the Convention on the Elimination of All Forms of Discrimination against Women occupies an important place among

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<sup>1</sup> *Ibid.*, Art 11.

<sup>2</sup> *Ibid.*, Art 12.

<sup>3</sup> *Ibid.*, Art 14.

<sup>4</sup> Sarah C. Zearfoss, Note, The Convention for the Elimination of All Forms of Discrimination Against Women, Radical, Reasonable, or Reactionary ?,*Michigan Journal of International Law*,Vol 12,No. 4,1991,p.909.

the international conventions related to human rights because it affirms, on the one hand, the human rights of women, who represent half of humanity, and on the other hand, it reflects the efforts of the United Nations to take the required measures to prevent all forms of discrimination against Women.<sup>1</sup>

### **2.3. American Convention on the Prevention, Punishment and Eradication of Violence against Women 1994**

The international preoccupation regarding women's rights has not remained limited to United Nations efforts, but has also extended to regional organizations where many conventions have been adopted, such as the American Convention on the Prevention, Punishment and Eradication of Violence against Women.<sup>2</sup> The State parties to this convention affirmed that violence against women affects all sectors of society regardless of class, gender, ethnic group, income, culture, educational level, age or religion or others situations. The convention maintained that combating violence against women is a duty of social institutions to promote the equal participation of women in all aspects of life. The States Parties admitted that the adoption of the convention on the prevention and eradication of violence within the framework of the Organization of American States is a positive step to the protection of women's rights and the elimination of violence against them.<sup>3</sup>

This convention defines violence against women as any act or behaviour on the basis of gender that causes harm to women,

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<sup>1</sup> Frances Raday, Gender and democratic citizenship, The impact of CEDAW , *International Journal of Constitutional Law*, Vol 10, No. 2, 30 March 2012, p.517.

<sup>2</sup> The Member States adopted the American Convention on the Prevention, Punishment, and Eradication of Violence against Women on 1994.

<sup>3</sup> Preamble to the American Convention on the Prevention, Punishment, and Eradication of Violence against Women .

whether on a public or private level.<sup>1</sup> It includes physical or psychological violence occurring within the family, torture, trafficking of persons, , kidnapping and sexual harassment in the workplace, educational institutions, health facilities or elsewhere.<sup>2</sup>

The Convention recognized to every woman the right to free and fully exercise of civil, political, economic, social and cultural rights, ensuring their full rights as embodied in regional and international human rights documents.<sup>3</sup> It insisted that every woman should be protected from violence and discrimination, and all forms of stereotypes.<sup>4</sup>

The States Parties condemned strongly all forms of violence against women and agreed to punish and eradicate such violence by all appropriate means and without delay. They Committed themselves to make the required effort to prevent violence against women, investigate its causes, impose penalties to fight it, including any kind of provisions to get rid of violence against women through national legislation and take appropriate administrative measures ,when necessary ,to take legal actions to stop the acts that harass or threaten women or endanger their lives.<sup>5</sup>

The states parties also pledged to raise public awareness concerning the problems of violence against women and provide the appropriate means via effective training programs and

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<sup>1</sup> Art 1 of the American Convention on the Prevention, Punishment, and Eradication of Violence against Women.

<sup>2</sup> *Ibid.*, Art 2.

<sup>3</sup> *Ibid.*, Art 3.

<sup>4</sup> Art 5 of the American Convention on the Prevention, Punishment, and Eradication of Violence against Women.

<sup>5</sup> Art 6 of the American Convention on the Prevention, Punishment, and Eradication of Violence against Women.

psychological support for women who have been subject to violence to enable them to be reintegrated in social life.<sup>1</sup>

The states parties also promised to promote the status of women, and to undertake research and collect statistics and information related to the causes of repeated violence against women, in order to apply effective measures to prevent it. Besides, yjey affirmed to launch special programs aiming to protect women from social exclusion.<sup>2</sup>

In order to protect every woman from violence, the convention obliged the States Parties to inform the American Commission for Women through their annual reports about all measures taken to prevent and prohibit violence against women, as well as the difficulties they encounter in applying those measures.<sup>3</sup>

In this regard, the States Parties to this Convention and the American Commission for Women may request advisory opinions from the American Court of Human Rights on the interpretation of this Convention.<sup>4</sup> It is recognized that every person, group, may file complaints to the American Commission on Human Rights to report the violations .In this context, the commission will Considering such allegations in accordance with the standards and procedures established by the American Convention on Human Rights and the Statute and Regulations of the American Commission on Human Rights regarding the submission of complaints.<sup>5</sup>

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<sup>1</sup> *Ibid.*, Art 7.

<sup>2</sup> *Ibid.*, Art 8.

<sup>3</sup> *Ibid.*, Art 10.

<sup>4</sup> *Ibid.*, Art 11.

<sup>5</sup> Elizabeth M. Misiaveg, Important Steps and Instructive Models in the Fight to Eliminate Violence Against Women, *Washington and Lee Law review*, Vol 52, No.3 Summer 1995, p.1114.

## **2.4. The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence 2011**

The Council of Europe adopted the same approach as the Organization of American related to the protection of women's rights via the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.<sup>1</sup> The States members expressed their deep concern about the exposure of women and girls to serious forms of violence, such as domestic violence, sexual harassment and rape, forced marriage, which constitute together serious violations of the rights of women and girls, and a major obstacle to achieve equality between women and men. It recalled the abuses of human rights in situations of armed conflicts, which have devastating effects on civilians, especially women, and looking forward to make the European continent free of domestic violence.<sup>2</sup>

This convention aims to eliminate all forms of discrimination against women, and achieve equality between women and men, by developing a comprehensive framework, policies and measures to protect and assist all victims of violence against women and domestic violence; and strengthen the cooperation between International Organization for the Elimination of Domestic Violence.<sup>3</sup>

This treaty targets all forms of violence against women, including domestic violence. The State parties agreed to give great attention to women who are victims of gender-based violence in both public

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<sup>1</sup> The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence was adopted in Istanbul on May 11, 2011.

<sup>2</sup> Preamble to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence .

<sup>3</sup> Art 1 of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence .

and private spheres.<sup>1</sup> They severely condemn all forms of discrimination against women, especially by measures aimed to protect the rights of victims, without any discrimination, based on sex, gender, race, colour, language, religion, political opinions or gender identity, age, health condition, disability or marital status.<sup>2</sup> The parties also agreed to take the necessary steps to change certain social and cultural patterns in order to eradicate prejudices, customs, traditions and every other practices or stereotypes devaluating women.<sup>3</sup>

Consequently, the States parties were engaged to take the necessary measures to protect all victims from any act of violence. They also affirmed their engagement to establish the appropriate mechanisms to reinforce the effective cooperation between State bodies, involving judicial authorities, prosecutors, local and regional jurisdictions and non-governmental organizations.<sup>4</sup>

This legal document established a special committee to monitor the implementation of the obligations of States. The supervisory body represents the parties to the agreement.<sup>5</sup> All parties have to submit reports to the Secretary General of the Council of Europe, based on a questionnaire prepared by the expert group on legislative and other measures taken to implement the provisions

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<sup>1</sup> Art 2 of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence .

<sup>2</sup> *Ibid.*, Art 4.

<sup>3</sup> *Ibid.*, Art 12.

<sup>4</sup> Art 18 of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence .

<sup>5</sup> *Ibid.*, Art 67.

of this agreement. The experts examine the reports and determine the specific items that will be covered by the evaluation process.<sup>1</sup>

## 2.5. Maternity Protection Convention 2000

The International Labour Organization<sup>2</sup> adopted earlier different conventions dealing with women and their rights in the field of work, such as the Convention on the Employment of Women before and after Childbirth, the Convention on Women's Work at Night, and the Maternity Protection Convention that we will be subject to analyse in this section.<sup>3</sup>

The ILO General Conference recommended States to promote the equality of all working women in a world characterized by the diversity of economic and social factors. The convention required a broader protection for pregnant women who have social and familial responsibilities.<sup>4</sup>

The Convention No. 183 on Maternity Protection stipulates that the term "woman" applies to any person of the female sex without any discrimination whatsoever, and the term "child" applies to every child without any discrimination whatsoever. The scope of

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<sup>1</sup> Roberta Caragnano, Violence against Women and Domestic Violence: General Framework and Overview of the Convention (Articles 1 and 2), *Athens Journal of Law*, Vol 4, No.1, 2018,p.58.

<sup>2</sup> The International Labour Organization (ILO) is an agency of the United Nations whose mission is to promote social and economic justice by setting international labour standards. Founded in October 1919 under the League of Nations, it is the first and oldest specialized agency of the United Nations.

<sup>3</sup> The General Conference of the International Labour Organization, held in Geneva, adopted the Maternity Protection Convention (No. 183) by the Board of Directors of the International Labour Office on May 30, 2000, at its 88<sup>th</sup> session.

<sup>4</sup> Preamble to the Maternity Protection Convention .

this Convention extends to include all women workers, including those who are not subject to total social protection.<sup>1</sup>

The agreement obligated all members to adopt the necessary measures to ensure that pregnant or breastfeeding women will not be forced to perform work that would harm their health or could be a high risk for the mother or children.<sup>2</sup>

The Convention stipulated that every woman shall be entitled to maternity leave for a period of not less than fourteen weeks upon presentation of a medical certificate or any other appropriate document, as determined by national legislation and practices, taking into account the necessary measures to protect the health of the mother and the child. The maternity leave shall include a compulsory vacation period of six weeks after childbirth.<sup>3</sup>

To provide broad legal protection in favour of women, the convention asked the women who have an interest in this procedure to submit a medical certificate to determine the period of maternity leave, and in case of illness or risk of complications resulting from pregnancy or childbirth, the nature and maximum duration of such leave may be determined in accordance with national law and practices.<sup>4</sup>

Moreover, this Convention stated clearly that financial benefits must be provided in connection with national legislation for women who are absent from work due to maternity leave, considering that the financial benefits paid to women during this leave are determined on the basis of income.<sup>5</sup>

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<sup>1</sup> Article 2 of the Maternity Protection Convention .

<sup>2</sup> *Ibid.*, Art 3.

<sup>3</sup> *Ibid.*, Art 4.

<sup>4</sup> *Ibid.*, Art 5.

<sup>5</sup> *Ibid.*, Art 6.

This Convention prohibits the employer from dismissing a woman during her pregnancy or leave, or throughout a period after her return from leave determined by national legislation, except for reasons unrelated to pregnancy. At the end of maternity leave, arrangements must be made to ensure that she returns to work and practice her job as usual.<sup>1</sup>

The Administrative Body of the International Labour Office submit to the General Conference a report on the application of this Convention and consider whether it is necessary to include certain provisions for the effective implementation of this Convention.<sup>2</sup>

## Conclusion

The status of women received much attention at the international level, especially after the establishment of the United Nations Organization in 1945. Nowadays, women's rights and freedoms are gaining so much respect within international law. Initially, the international community, in particular through the Commission on the Status of Women, started its long journey to women empowerment by promoting equal rights between men and women.

In 1963 the Commission initiated the Declaration on the Elimination of Discrimination against Women, which was adopted by the United Nations General Assembly in 1967. The declaration was followed by the Convention for the Elimination of All Forms of

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<sup>1</sup> Art 8 of the Maternity Protection Convention.

<sup>2</sup> Katharine Booth, Paternity and Parental Leave: Towards a New International Labour Standard, Hastings Women's Law Journal, Vol 32, No.2, Summer 2021,p.9.

Discrimination against Women in 1979, which was well received by the civil society that fights for the women's cause. During this period, the United Nations established a fundamental standards that reaffirmed the rights of women and abolished discriminatory practices against them .Encouraged by the recognition of their rights in interactional treaties, women pursued their struggle with determination to reduce the gap of wages and to advocate their full participation in sustainable development.

Strictly talking, the United Nations has made considerable efforts to promote women's rights and a significant progress has been made in international scope. However, discriminatory practices against women are still present in their daily life. Women in different area of the glob experience various forms of discrimination based on ethnicity, nationality, religion, health, marital status, education, disability or social situation.

Finally, the research investigation allows us to reach multiple results followed by certain recommendations to improve the social conditions of women, and provide an efficient protection of their rights in the International Law.

### **A-Results:**

-The status of women within international human rights law has known a progressive form, starting by the recognition of their rights in declarations which were reaffirmed in binding conventions.

- In spite of the wide recognition of the rights of women within international laws, women are still subject to violence and discrimination based on gender.

-There is no real consensus about the scope and nature of women's rights and basic freedoms among countries due to the diversity of

religions, social and cultural backgrounds that characterize the international community.

-The oversight mechanisms based of periodical reports prove to be ineffective and cannot provide a successful protection of women's rights.

-Certain traditions maintain the marginalization of women and impose restrictions on their rights.

### **B-Recommendations:**

-Establishing effective mechanisms of control and ensure that female victims have access to viable and affordable means to access to an independent and fair court.

-Reviewing various national laws and legislations to abolish all forms of discrimination against women.

-Supporting the efforts of women's organizations to protect women's rights.

-Improving women's working conditions and developing social insurance systems to provide a broader protective offering for women.

-Taking the necessary measures to guarantee women's rights and their social empowerment.

Ultimately, Let us hope that our suggestions will be taken into account by the stakeholders at the national and international levels. The present research open up doors for further investigations on women's human rights violations from other perspectives.

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- The Declaration on the Elimination of Violence against Women 1993
- The Beijing Declaration and Platform for Action 1995

### **2-Conventions:**

- The Convention on the Political Rights of Women 1952
- The Convention on the Elimination of All Forms of Discrimination against Women 1979
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