



Women's human rights: International bill of human rights

Radhe Shyam

Assistant Professor, AMP Govt. Law College, Rajkot, Gujarat, India

Abstract

Women's right is human rights. International Bill of Human Rights is the milestone, not only in the field of human rights but also in the field of women's human rights. UDHR is known to be the cornerstone of human rights. It is non-binding Declaration which is adopted by United Nations General Assembly (UNGA) in 1948. On the other hand ICCPR and ICESCR are legally binding Conventions adopted by UNGA in 1966.

Present paper critically analyses the issues raised by State Parties (India and Bangladesh), concerning with the women's, in the negotiation of draft preparation of UDHR as well as women's rights finally took shape in the UDHR, ICCPR and ICESCR.

Keywords: women's right, international bill, united nations general assembly (UNGA)

Introduction

The framers of the UN Charter have no insight as today women human rights evolved. Charter does not contain any specific provision for the women's human rights^[1]. In spite hindsight's of UN Charter framers, contrary argument is also possible as preamble of UN Charter clearly find place the word 'men and women'. For the respect and observance of human rights and fundamental freedoms of women within UN System, under Human Rights Commission^[2], a sub Commission on Status of Women were created which very soon, with to attempt of Badil Begtroup (Chairperson of Sub Commission on Status of Women), becomes independent body known as Commission on Status of Women (CWS) which directly respond to the ECOSOC^[3].

CSW, a key international organization endeavor to respect for and observance of women's human rights, initially functioned as supporting body of Human Rights Commission to draft Human Rights Bill a gender just document. CSW has played a vital role to draft the Human Rights Bill and other Declarations and Conventions particularly on the issue of women rights.

By virtue of Art.10 & Art.13, UNGA add the significant chapter in the women's human rights in the form of its Resolution, Declaration and Convention. Two of the six main Committees of the United Nations General Assembly participated in the drafting of international human rights instruments including women's human rights; the Social, Humanitarian and Cultural Committee (third Committee) and the Legal Committee (sixth Committee)^[4].

India being an original 51 members of the United Nations who signed the UN Charter, after attaining independence, the constitution of India reaffirmed, commitment to "promote international peace and security; to maintain just and honorable relations among nations; to foster respect for International Law and treaty obligations in the dealings of organized peoples with one another and to encourage settlement of international disputes by arbitration and other

peaceful means^[5]. As a founding member of the United Nations, India strongly supports the purposes and principles of the UN and has made significant contributions to implementing the goals of the Charter, and the evolution of the UN's specialized programmes and agencies.

The International Bill of Human Rights comprises following document; Universal Declaration of Human Rights 1948^[6], the International Covenant on Economic, Social and Cultural Rights 1966^[7], and the International Covenant on Civil and Political Rights 1966^[8] and its two Optional Protocols^[9]. India took active part in drafting of the Universal Declaration on Human Rights (UDHR). Dr (Mrs). Hansa Mehta, a Gandhian political activist and social worker who led the Indian delegation, had made important contributions in drafting of the Declaration, particularly highlighting the gender equality. India is fully committed to the rights proclaimed in the Universal Declaration^[10]. The Universal Declaration of Human Rights which followed and forms the basis of bills of rights of many national constitutions provides in article 1^[11] that, "All human beings are born free and equal in dignity and rights". Article 2^[12] speaks of the entitlement of all persons to the enjoyment of the rights contained within the Declaration "without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." This theme of nondiscrimination runs through all the deliberations about the Declaration, and whatever disagreements there were about the various items on the list were minor There was complete agreement that the article on nondiscrimination was a keystone of the Declaration and a gateway to its universality. If we take away someone's race, sex, and opinions on various subjects, all information about his or her background about birth and present economic status, what we have left is just a human being, one without frills^[13]. Discrimination was prohibited by the use in each article of the phrase 'every person' or 'everyone^[14]'. That is why the prohibition against discrimination is not repeated-as it well might have been-with

each article, but is stated at the beginning and made applicable to "all the rights and freedoms set forth in this Declaration"^[15].

Art.16^[16] provides marriage and family relations. When Article 16 arrived at the Third Committee^[17], it had the following three paragraphs (1) men and women of full age have the right to marry and to found a family and are entitled to equal rights as to marriage; (2) marriage shall be entered into only with the full consent of both intending spouses; and (3) the family is the natural and fundamental group unit of society and is entitled to protection. The difference between this text and the final one we have lies in the addition of the phrases "without any limitation due to race, nationality or religion" and "during marriage and at its dissolution," both to paragraph one. In the second paragraph the consent was not only made full, but also free, while in the third paragraph to the idea of protection was added that it be done "by society and the state."^[18] The prohibition of discrimination on the basis of religion was, however, a great faltering block to delegates from largely Muslim countries^[19]. For in Muslim law, Muslims are forbidden to marry someone of another faith. This conflict was so severe that it caused Saudi Arabia to abstain in the final vote on the Declaration, one of only eight countries to do so. Mr. Baroody, the Saudi delegate to the Third Committee, emphasized the fact that apparently the author of the draft declaration had for the most part taken into consideration only the standards recognized by western civilization which had ignored more ancient civilization which were the past the experimental stage, and the institution of which, for example marriage had proved their wisdom through centuries^[20]. However on the other hand Mrs. Ikramullah the delegate from Pakistan, had said that "her delegation fully supported the adoption of the declaration because it believed in the dignity and worth of man it was imperative that the peoples of the world should recognize the existence of a code of civilized behavior which would apply not only in international relations, but also in domestic affairs"^[21]. Thus each article of the Universal Declaration inherits the principle of non- discrimination on the basis of sex^[22].

The International Covenant on Economic, Social and Cultural Rights, 1966 elaborates further the economic social and cultural rights listed in the Universal Declaration of Human Rights. Articles 6 to 15 of the International Covenant on Economic, Social and Cultural Rights recognizes: the rights to work (art. 6); to the enjoyment of just and favorable conditions of work (art. 7); to form and join trade unions (art. 8); to social security, including social insurance (art. 9); to the widest possible protection and assistance for the family, especially mothers, children and young persons (art. 10); to an adequate standard of living (art. 11); to the enjoyment of the highest attainable standard of physical and mental health (art.12); to education (arts. 13 and 14); and to take part in cultural life (art. 15).

The International Covenant on Civil and Political Rights elaborates further the civil and political rights and freedoms listed in the Universal Declaration of Human Rights. The Covenant provides for freedom of movement and freedom to choose a residence (art. 12) and for limitations to be placed on the expulsion of aliens lawfully in the territory of a State party

(art. 13). It makes provision for the equality of all persons before the courts and tribunals and for guarantees in criminal and civil proceedings (art. 14). It prohibits retroactive criminal legislation (art. 15); lays down the right of everyone to recognition everywhere as a person before the law (art. 16); and calls for the prohibition of arbitrary or unlawful interference with an individual's privacy, family, home or correspondence, and of unlawful attacks on his honour and reputation (art. 17).

The ICCPR provides for protection of the rights to freedom of thought, conscience and religion (art. 18) and to freedom of opinion and expression (art. 19). It calls for the prohibition by law of any propaganda for war and of any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (art. 20). It recognizes the right of peaceful assembly (art. 21) and the right to freedom of association (art. 22). It also recognizes the right of men and women of marriageable age to marry and to found a family, and the principle of equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution (art. 23). It lays down measures to protect the rights of children (art. 24), and recognizes the right of every citizen to take part in the conduct of public affairs, to vote and to be elected, and to have access, on general terms of equality, to public service in his country (art. 25). It provides that all persons are equal before the law and are entitled to equal protection of the law (art. 26). It also calls for protection of the rights of ethnic, religious and linguistic minorities in the territories of States Parties (art. 27).

For the implementation of rights recognized by ICESCR and ICCPR have the its Committee^[23] but prior 1990 these Committees did not pay any attention to the specific violations of Women's human rights but after Vienna Conference 1993 these bodies also pays the attention to the violations of women's human rights^[24].

The first Optional Protocol to the International Covenant on Civil and Political Rights enables the Human Rights Committee, set up under that Covenant, to receive and consider communications from individuals claiming to be victims of violations of any of the rights set forth in the Covenant.

The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, was adopted by the General Assembly by its resolution 44/128 of 15 December 1989.

Conclusion

Universal Declaration of Human Rights (UDHR) is source of all kind of international human rights Conventions including women's rights Conventions. ICCPR and ICESCR are too, legally binding rights, transformation of UDHR. International Bill of Human Rights fails to provide specific protection of women rights but amply inherit the pace to develop the women human rights as today evolved. A number of UN legal document devoted to the women rights explicitly recognized the UDHR and either ICCPR or ICESCR, is itself an evidence of magnitude of International Bill of human Rights towards women's rights. And now women's right become Women's Human Rights^[25]

References

1. See The drafter of the UN Charter knew that they were writing the constitutive document of an important organization but they never imagined that they were creating an international system of human rights” Mertus, A., Julie, *The United Nations and Human Rights* Routledge, Taylor and Francis Group London and Newyourk, 2005.
2. Now it replaced by Human Rights Council.
3. On the request made by Badil Begtrup, ECOSOC passed resolution and sub commission converted into full Commission by 21st June 1946. See E/RES/2/11, 21 June 1946.
4. Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, 1948.
5. International Covenant on Economic, Social and Cultural Rights, 1966 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 1949 Convention on the Rights of the Child, 1989 Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, 2000 Rome Statute of the International Criminal Court, 1998 United Nations Convention against Transnational Organized Crime, 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000 Statute of the International Tribunal for the Former Yugoslavia, 1993 Statute of the International Tribunal for Rwanda, 1994 Vienna Declaration and Programme of Action, 1993.
6. Art. 51 the Constitution of India.
7. By resolution 217 A (III) of 10 December 1948, the General Assembly adopted the Universal Declaration of Human Rights, 1948.
8. International Covenant on Economic, Social and Cultural Rights Publisher UN General Assembly, Publication Date 16 December 1966 Document Symbol United Nations, Treaty Series, Entry into force: 3 January 1976; 993:3.
9. Entry into force: 23 March 1976, in accordance with article 49, for all provisions except those of article 41; 28 March 1979 for the provisions of article 41 (Human Rights Committee), in accordance with paragraph 2 of the said article 41. Registration : 23 March 1976, No. 14668 Status : Signatories : 74. Parties : 167 1 Fact Sheet No.2 (Rev.1), The International Bill of Human Rights
10. Indian mission to UN, available at www.un.int/india/
11. Universal Declaration of Human Rights, 1948
12. Ibidem
13. Johannes Morsink Women's Rights in the Universal Declaration, *Human Rights Quarterly*, Vol. 13, No. 2 (1991):229-256 <http://www.jstor.org/stable/762661>. Accessed: 15/01/2013 09:28
14. See also UN. Doc. E/CN.4/AC.1/BR.2a4t 4.
15. Johannes Morsink Women's Rights in the Universal Declaration, *Human Rights Quarterly*, 1991; 13:229-256 <http://www.jstor.org/stable/762661>. Accessed: 15/01/2013 09:28
16. Universal Declaration of Human Rights, 1948.
17. The work of the United Nations derives largely from the decisions of the General Assembly - that is to say, the will of the majority of the Member States as expressed in resolutions adopted by the Assembly. Issues pertaining to the status of women in the United Nations system are considered by two of the Assembly's six Main Committees - the Third Committee which considers social, humanitarian and cultural questions and the Fifth Committee which considers administrative and budgetary questions. Among other matters, these resolutions request that the Secretary-General to report regularly to the Assembly on its mandates.
18. Johannes Morsink Women's Rights in the Universal Declaration, *Human Rights Quarterly*, 1991; 13; (2):229-256 <http://www.jstor.org/stable/762661>. Accessed: 15/01/2013 09:28
19. The vote was thirty-six to zero, with five abstentions. 3(1) U.N. GAORC.3 (84th-180th mtg.) at 376, U.N. Doc. A/C.3/SR.84-180 (1948).
20. Id. at 370
21. 3(1) U.N. GAOR C.3 (84th-1 80th mtg.) at 37, U.N. Doc. A/C.3/SR.84-180 (1948).
22. Contrary Declaration consists in article 21, 22 and 23 sexiest language “his family” these could be signals that the document does not treat women as individuals, trapping them in the family and giving them rights only as housekeepers or mother.
23. Committee on Economic Social and Cultural Rights and Human rights Committee constituted by its parent covenant i. e. ICESCR and ICCPR respectively.
24. Project on a mechanism to address Laws that discriminate against women available at www.ohchr.org
25. The term ‘women’s human rights’ firstly coined in fourth World Conference on Women held in Beijing in See Chatterjee, Mohini Women’s Human Rights, Aaviskar Publishers, Distributers, Jaipur, 2005-1995.