



Rule of Law Section

Translations of Articles Relevant to the Criminal Justice Sector

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Title: Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

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Convention on the Elimination of All Forms of Discrimination against Women

The Convention on the Elimination of All Forms of Discrimination against Women is often described as an international bill of rights for women, and one of the most important international conventions on human rights. For the purposes of the present Convention, the term “discrimination against women” in article (1) shall mean any distinction, exclusion, or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment, or exercise by women, irrespective of their marital status, on the basis of equality of men and women, and human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

The Special Declaration on the Elimination of Discrimination against Women adopted by the General Assembly of the United Nations in 1967 fostered an international unified legal framework which reflects equality in rights between man and woman in the context of ten items contained in the Declaration. And since this Declaration did not assume the form of a contractual agreement despite its political and literal prestige, the countries were not presented with enforceable obligations. At this point in time, and in 1972, the Special Committee on the Status of Women studied the possibilities for the preparation of an agreement rendering the Declaration mandatory for those who are parties to it. The idea for the preparation of such an agreement received big support in the international work plan emanating from the International UN Conference on the International Year for Women, 1975, which called for the preparation of “a convention for the elimination of discrimination against women, and active regulations for enforcing it”. The General Assembly of the United Nation fostered this through the declaration that 1975-1985 is the UN Decade for Women.

Furthermore, The General Assembly of the United Nations adopted the Convention on the Elimination of All Forms of Discrimination against Women on 18 December 1979 by virtue of its resolution 24/80 as an outcome of decades of international efforts for the protection and advancement of women’s rights and in compliance with the initiatives of the committee on the status of women constituted within the UN framework in 1947. This committee prepared during 1949-1959 various agreements pertaining to women like: Convention on the Political Rights of Women (1954) and the Special Convention on the Nationality of Married Women (1958).

After the adoption of the Convention by the United Nations, the door was open for its signature in New York on 1st March 1980, and it came into force on 13 September 1981 after the 20th member joined it. Among the 163 parties to the Convention, there are 11 Arab Countries namely: Jordan, Iraq, Kuwait, Libya, Morocco, Algeria, Lebanon, Egypt, Yemen, and the Comoro Islands. And, by virtue of article (10/2) of the Basic Law, the PNA shall work towards joining this Convention.

Article (2) of the Convention outlines the appropriate means to be undertaken by the parties to the Convention for the elimination of discrimination against women. Among those measures are: the parties shall incorporate the principle of equality of men and women in their national constitutions or other appropriate legislation, in addition to the amendment of the provisions in their other laws which constitute discrimination against women.

Article (4) of the Convention allows the adoption of special measures aimed at achieving actual equality between men and women, and that those measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved. The Committee for the Elimination of Discrimination against Women recommended in 1988 that “the parties to the Convention shall increase the use of special temporary measures like positive measures or preferential treatment or allotment measures to foster the integration of women in education, in the economy, in politics, and in the work force”.

Article (5) of the UN Convention requests the participating parties to ensure that family education includes a clear understanding of maternity as a social function, and calls for the cooperation of men and women in the development of their children.

Article (7) provides for the necessity to achieve equality between men and women in the political and public life of the country. It requests countries to adopt the necessary measures which shall guarantee the right of women to vote in all elections and public plebiscites and to be eligible to be voted for in all publicly elected bodies, to perform all public functions in any organization and non-governmental association concerned with the public and political life of the country. Article (8) provides for the participation of women at the international level. Article 9/1 provides that the countries which are parties to the Convention shall ensure that women are on equal terms with men in changing or retaining their nationality. They shall furthermore ensure that neither marriage to an alien nor change of nationality of the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband. Section 2 of the same article requires the parties to grant women equal rights with men in respect to the nationality of their children.

Articles (10-14) of the Convention provide for equal opportunities in education, employment, salaries, social benefits, and health care.

Articles (15-16) of the Convention concentrate on equal responsibilities in the frame of family life, and granting women legal capacity identical to that of men, and the enjoyment of her legal rights and her right to a family and to enter into a marriage.

Articles (17-30) provide for mechanisms to control the implementation of the Convention, for the formation of the women’s committee, for the receipt of reports from the parties to the Convention, and also the terms for reservations, submittal, and arbitration.

However, as regards reservations, article (28) of the Convention stipulates that the parties to it shall be allowed to express their reservations on its signature and ratification. No reservation incompatible to the object of the Convention shall be entertained.

The reservations by Islamic countries to the Convention

Article (28) of the Convention allows the parties to it to express their reservations at the time of signing, ratifying, or joining it. However, it shall not be permissible to express any reservation contrary to its object. On reviewing the reservations expressed by the Arab countries which have ratified the Convention, we notice that those reservations were restricted to the following seven articles as follows:

Article (2) pertaining to equality before the law and the elimination of discrimination against women in the constitutions and national legislations (Iraq, Morocco, Egypt).

Article (7) pertaining to political participation (Kuwait).

Article (9) pertaining to laws of nationality (Jordan, Algeria, Iraq, Kuwait, Morocco, Tunis, Lebanon, Libya, Egypt).

Article (13) pertaining to economic and social equality. Only Bangladesh (Islamic country) expressed reservation to it.

Article (15) pertaining to legal and civil capacity with men (Jordan, Tunis,, Indonesia, Turkey).

Article (16) pertaining to marriage and family life. All the Arab countries expressed reservation except Yemen and Comoro Islands.

Article (29) pertaining to arbitration among countries and referral to the International Court of Justice in cases on interpretation or implementation of the Convention (Iraq, Kuwait, Morocco, Tunis, Lebanon, Egypt, Yemen).

Article (18) provides that the parties to the Convention shall submit periodical reports on the judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect. The committee on the elimination of all sorts of discrimination against women composed of 23 members shall look into those reports. It meets twice a year for a fortnight during the months of January and June of every year.

The Optional Protocol for CIDAW

In a very important step, the Optional Protocol for the Convention on the Elimination of All Forms of Discrimination against Women was ratified on 12 March 1999. The 43rd session of the Committee adopted the Optional Protocol to the Convention which comprises two procedures: the first part to the communication channels which enables individual women or groups of women to submit their complaints on the infringement of their rights to elimination of discrimination committee; while the second relates to the investigation which enables the committee to ask questions and to enquire on the circumstances and the continuous and dangerous infringements of women's rights. In both cases, the countries concerned shall be parties to the Protocol.

The advisor to the Secretary-General of the UN on gender and the advancement of women stated that "the ratification of the Optional Protocol is a very important issue since the year 1999 shall witness the 20th anniversary for the ratification of the Convention on the Elimination of All Forms of Discrimination against Women, and coupled with the international ratification of the Convention by 2000, the Optional Protocol shall be the main step towards the implementation of the rights of women by governments."

The International Conference on Human Rights placed emphasis on the full enjoyment of women on equal footing of all human rights, and that this issue shall be considered a major priority of governments and of the United Nations. It also stressed the necessity of integrating women and on their full participation as an active component in the development process and as a benefactor of it, together with the necessity to eliminate all forms of hidden and open discrimination against women.

The United Nations should have encouraged the ratification of the Convention by all countries by the year 2000. It shall also have to encourage the formulation of means and meas-

ures to treat the very big number of reservations against the Convention, and to induce countries to withdraw their reservations which infringe on the object of the Convention as outlined in the Vienna Declaration.