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Implementation of Women-Centric Frameworks in Theory and Practice

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ABSTRACT

Irrespective of how women were stereotypically perceived during the olden days, one cannot dissent from the fact that women and men today are (ideally) equals. Women all over the world have struggled and accomplished abundantly more than the previously set records. After the countless years of oppression, there was an imperative need to frame international instruments catering to recognition of women's rights as 'human rights'. This ever-increasing need for a certain set of codes led the United Nations to create the Universal Declaration of Human Rights, Committee on Economic, Social and Cultural Rights, Convention on the Elimination of all Forms of Discrimination against Women and many more instruments that worked towards dealing with safeguarding rights of women and advocating gender equality. Conversely to this effort, women's rights still remain subject to inclusion and effective implementation in many parts of the world. Even though the public outcry for enforcing the concept of gender equality has taken a global and all-encompassing embodiment, gender equality remains a mirage to many. This is largely due to implementation problems such as the herculean cultural, social and economic gaps faced by the countries that have ratified these instruments. This article attempts to succinctly discuss the instruments arrayed for gender equality and women's rights. Furthermore, it also delves into the models that are adopted transnationally to implement the instruments mentioned above and traverses the challenges that are presented in the course of implementation. Lastly, this article proffers suggestions that could be inculcated in the current implementation process to overcome the challenges faced.

Keywords: women, women's rights, United Nations, instruments, international, implementation, challenges, solutions

I. INTRODUCTION

"Being born female is dangerous to your health"³

Years of oppression faced by women has ascertained that there should be equality for all –

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³ Anne Firth Murray, From Outrage to Courage: Women Taking Action for Health and Justice (2008).

equality *among* all. Women, today, are fighting for the rights that should have been theirs (too) ever since the beginning. Accordingly, it becomes imperative to highlight the existing gender norms, cultural & gender stereotypes, social conditioning to resort to a mechanism which neglects the inherent and unrealized manifestation of ‘discrimination’ between genders and the gender gap that followed thereby.

The journey of defining the concept of equal rights for women is an important stairwell that we need to climb in order to implement various national and international mechanisms that are existent today’s world. The United Nations Charter which was the first international treaty to spell out ‘equality’ in specific terms⁴ introduces the principle of equal rights for men and women as a basic tenet.⁵ It was recognized that there was a need for a special instrument prohibiting *de jure* and *de facto* discrimination against women with a specific monitoring mechanism⁶ as United Nations Commission on the Status of Women (CSW) had opined that – neither the Universal Declaration of Human Rights (UDHR) nor the legally binding human rights treaties had advanced the human rights of women and that “universally-recognized human rights are still not enjoyed equally by women and men”⁷. As a result, Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) was adopted in 1979 which proposed that states should be legally bound to eradicate discriminatory laws, as well as *de facto* discrimination.

Subsequently, multiple international conferences were held aiming at ending discrimination and promoting gender equality; along with the same becoming a Sustainable Development Goal (SDG) laid down by the United Nations.

The progression of the fight for women’s rights has now become a global movement because international and national instruments pertaining to inclusion of women’s rights into human rights and national mechanisms are working towards achieving gender equality. However, implementation of these instruments and mechanisms is the biggest challenge faced by national governments. Cultural differences, socio-economic status, lack of funding, unwillingness to work towards upliftment of women due to social conditioning and participation in international mechanisms on a ‘namesake’ basis are few reasons why national governments fail at fulfilling

⁴ Bruce, M., 1971. Work of the United Nations Relating to the Status of Women. *Human Rights Journal*, 4, pp.365-412.

⁵ Laura Reanda, *Human Rights and Women's Rights: The United Nations Approach*, 3 Human Rights Quarterly 11 (1981).

⁶ Rawwida Baksh-Soodeen, Wendy Harcourt & Mary Shanti Dairiam, *CEDAW, Gender and Culture*, in The Oxford Handbook of Transnational Feminist Movements (2015).

⁷ Hilikka Pietilä, *The Unfinished Story of Women and the United Nations*, (UN- NGLS) Development Dossier. New York and Geneva: United Nations Non-Governmental Liaison Service. (2007).

the objectives laid down by various instruments. In most of the countries, women's rights appear to be a far-fetched reality even though the cry for help is reverberating world-wide.

This article takes a look at the instruments that shelter women's rights along with accenting the lacunae in implementation of these instruments. The article also finds tributaries in suggestions that may help in augmenting the implementation procedures to fulfil the objectives set by multiple instruments.

II. FRAMEWORKS CATERING TO WOMEN'S RIGHTS

Eliminating all forms of discrimination between men and women has been a longstanding dream and a fundamental right that is yet to be achieved for many centuries. Equality as a concept for a women is yet to be attained even after the work that has been put in the recent decades.⁸ There were four fields of activism that were stressed upon by the various organisations until the mid-twentieth century – women's suffrage, anti-war activism, demands for equal labour rights and changes in the legal status of women with particular consideration towards marriage.⁹¹⁰

One of the primary major steps taken towards the goal of achieving equality was initiated by the United Nations in 1945 with the major goal to promote respect for human rights and fundamental freedoms without distinction as to race, sex, language or religion.¹¹ Prohibition of discrimination based on sex is reiterated in Articles 133 and 55 of the United Nations Charter which explains the promotion of universal human rights. The Universal Declaration of Human Rights (UDHR) is another document produced by the United Nations with the aim to promote equal human rights for everyone. Upon further review, the instrument, while being one of the foremost steps taken towards eliminating discrimination, was found to be not as efficient in executing it. While drafting the resolution, there had been much discussion about the use of the phrase 'all men' rather than a gender-neutral term like 'human beings'.¹² However, ultimately, this was thankfully not exercised and instead the neutral word 'sex' was used as a replacement.¹³

⁸ United Nations Human Rights, Office of the High Commissioner, *Women's Rights Are Human Rights* (United Nations Publication) (2014)

⁹ Rupp, Leila J. *Worlds of Women*. Princeton University Press, 1997.

¹⁰ Stienstra, Deborah. *Women's Movements and International Organizations*. Palgrave Macmillan UK, 1994, <http://dx.doi.org/10.1007/978-1-349-23417-2>.

¹¹ UNITED NATIONS HUMAN RIGHTS, OFFICE OF THE HIGH COMMISSIONER, *WOMEN'S RIGHTS ARE HUMAN RIGHTS* (United Nations Publication) (2014)

¹² Johannes Morsink, "Women's rights in the Universal Declaration", *Human Rights Quarterly*, vol. 13, No. 2 (May 1991).

¹³ United Nations 1948,, *Universal Declaration of Human Rights*

After the adoption of UDHR, The United Nations had become an important universal platform to discuss the status of women not for the general awareness of the movement but to essentially form the Commission on the Status of Women (CSW)¹⁴. The UN General Assembly had created two human rights treaties – the International Covenant on Civil and Political Rights¹⁵ (ICCPR) and the International Covenant on Economic, Social and Cultural Rights¹⁶ (ICESCR). Along with the UDHR, these two instruments completed the International Bill of Human Rights. The ICESCR or the ‘Covenant’ protects the rights of the women in varying manners. Specifically, Article 3¹⁷ of the Covenant provides for the equal rights of men and women both in that – the enjoyment of the rights that it illuminates should be the same. The *travaux preparatoires* elucidates that the Article 3 of the Covenant was also included in the ICCPR to highlight that – beyond a point of abolishing discrimination against women, the same rights should be expressly recognized for men and women both on an equal footing and suitable measures should be taken to ensure that women had the chance to exercise their rights.¹⁸ Albeit Article 3 overlapped with Article 2(2)¹⁹, it was still deemed necessary to reaffirm the equal rights of men and women. The rudimental principle, which was enshrined within the Charter of the United Nations, must be constantly emphasized. This is especially pertinent as there have been many tendentious actions which have been preventing the entirety of its application. When we take a look at ICESCR, under its purview, Article 2 (2) states a guarantee of non-discrimination on the basis of sex among other grounds.²⁰ In many of its general comments, the Committee on Economic, Social and Cultural Rights (CESCR) has taken factors into consideration which affect the equal rights of men and women pertaining to basic rights with reference to their economic, social and cultural rights.

The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) was adopted by the UN General Assembly on 18th December 1979 and perhaps, proved to be the most important instrument against discrimination against women. This is a milestone

¹⁴ Susanne Zwingel, *Translating international women's rights: the cedaw convention in context*, (Palgrave Macmillan) (2019)

¹⁵ UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, available at: <https://www.refworld.org/docid/3ae6b3aa0.html> [accessed 9 October 2020]

¹⁶ UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, available at: <https://www.refworld.org/docid/3ae6b36c0.html> [accessed 9 October 2020]

¹⁷ Ibid

¹⁸ COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS. “General Comment N. 16. Article 3: The Equal Right of Men and Women to the Enjoyment of All Economic, Social and Cultural Rights | ESCR-Net.” *ESCR-Net*, <https://www.escr-net.org/resources/general-comment-n-16-article-3-equal-right-men-and-women-enjoyment-all-economic-social-and>. Accessed 8 Oct. 2020.

¹⁹ Ibid

²⁰ Ibid

Convention which is known for its comprehensiveness and legally binding character – all dedicated to the women around the world.²¹ The Convention consists of 30 Articles and is divided into six parts in total with the first part conveying all the general provisions which includes the broad definitions. Parts 2-4 specify the aforementioned provisions in substantive fields and also cover the need for equal political rights of women. Part 5 checks the implementation procedure of the Convention which includes the reporting obligations of the state parties. The final part 6 contains the modes of ratification and the entry into force.

The convention is monumental in providing basis for realising the equality between men and women by securing the prerogative of a woman to access equal opportunities in political and public life such as the right to vote and to stand for election. It also includes education, health and employment. CEDAW is also the only instrument which stands for the reproductive rights of women by targeting the societal changes and cultural influences which shape the norms relating to gender roles and family relations. Another feature of the Convention includes the compulsory implementation of the provisions that the States have ratified.²² This includes submitting national reports at least every four years on complying with the treaty measures. The States also agree to take appropriate measures such as legislation and temporary special measures so that women can fully experience the extent of their rights and fundamental freedoms.²³



Figure 1 – Evolution of women-specific instruments²⁴

²¹ Pietilä, Hilikka, and Jeanne Vickers. *Making Women Matter*. 1996.

²² Text of the Convention on the Elimination of All Forms of Discrimination against Women, un.org, <https://www.un.org/womenwatch/daw/cedaw/cedaw.htm>

²³ Ibid

²⁴ UN Women Training Centre, AN INTRODUCTION TO CEDAW (2018), <https://trainingcentre.unwomen.org/>

III. IMPLEMENTATION OF FRAMEWORKS

The fundamental international instruments in the field of human rights have established the principle of equality between men and women in international law.²⁵ Even though concepts such as gender and sex are included in international law and are also welcomed by national legal systems, these concepts are often under challenge from local assertions of male culture.²⁶ Consequently, multiple problems are posed during implementation of these instruments. Implementation revolves around effectiveness of instruments that deal with gender equality and ending discrimination. Men and women experience disparate political, economic, cultural and social life owing to socially-constructed gender differences and ideologies. Countries have recognized that policies devised to bring about gender equality will inevitably become ineffective if the aforementioned factors are not taken into account – which will further lead to gender prejudices and disparities affecting both men and women.²⁷

Governments and organizations are using diverse ways to interpret and implement the policies/frameworks in issue. Therefore, multiple gender mainstreaming models and approaches have emerged:

- (i) *Gender equality or integrationist model* – This is often known as the “add women and stir” approach.²⁸ It lets the governments add gender concerns or gender conforming laws to pre-existing frameworks without essentially altering those frameworks. Nevertheless, the concept of gender and gender equality becomes identical with women and the rudimentary operating procedures of institutions remain unchanged.²⁹
- (ii) *Gender-as-difference model* – This model keeps the gender-binary firmly embedded without dislodging masculinist power structures.³⁰ The focal point of this model is to create a notion of tolerance for gender differences and this difference is what is being mainstreamed.³¹ This can take the form of ‘women-only programming’ which helps in

portal/product/cedaw/.

²⁵ Laura Reanda, Human Rights and Women's Rights: The United Nations Approach, 3 HUM.Rts. Q. 11 (1981).

²⁶ Hilary Charlesworth, *International human rights law a portmanteau for feminist norms?* in Feminist Strategies in International Governance 21–36 (1 ed. 2013).

²⁷ Jacqui True & Laura Parisi, *Gender mainstreaming strategies in international governance*, in Feminist Strategies in International Governance 38–56 (1 ed. 2013).

²⁸ Rounaq Jahan, *Elusive agenda: mainstreaming women in development* (1995).; Supra

²⁹ Maria C. Correia and Ian Bannon, ed. *The Other Half of Gender: Men's Issues in Development* (Washington, DC: The World Bank, 2006); Desai, “NGOs, Gender Mainstreaming and Urban Poor Communities in Mumbai,” 90–98.

³⁰ Jane Parpart, “Fine Words, Failed Policies: Gender Mainstreaming in an Insecure and Unequal World,” in *Development in an Insecure and Gendered World: The Relevance of the Millennium Goals*, ed. Jacqueline Leckie (London: Ashgate Publishers, 2009), 60.

³¹ Elisabeth Prügl (2009) *Does Gender Mainstreaming Work?*, International Feminist Journal of Politics, 11:2, 174–195, DOI: 10.1080/14616740902789542

recognizing the value of marginalized voices and group perspectives³² but may also prove be non-inclusive in nature as gender mainstreaming does not involve ‘only women’.

- (iii) *Gender-as-intersectionality model* – At times, organizations may be contextualizing gender mainstreaming strategies as per their particular needs on the basis of the multiple identities of populations that they serve.³³
- (iv) *Alternative gender mainstreaming models or transformationalist model* – This approach focuses on looking at gender mainstreaming from an entirely different perspective as they try to redefine the existing global governance frameworks through various organizations/governments.³⁴
- (v) *Resistance to/Rejection of gender mainstreaming model* – Many organizations and institutions may not want to implement gender mainstreaming or may neglect the concept itself because it is too confusing or threatening. This results in existence of policies which are present only in name or represent the rejection of gender mainstreaming mandates altogether.³⁵

IV. CHALLENGES POSED WHILE IMPLEMENTATION

Despite the emergence of different models to implement gender mainstreaming, gaps between legal policy framework and implementation continue to persist. The meaning of ‘gender’ is not intelligible to policymakers³⁶ and this lack of clarity creates a cultural challenge which is difficult to overcome. It is onerous to structure norms and policies in a manner where implementation is cohesive with the objectives of relevant instruments whilst running parallel to historical and cultural contexts.³⁷ Even though policies on a governmental level are formed to exist in tandem with international instruments for gender equality, a faulty understanding of ‘gender’ may lead to formation of policies which are not analogous to the objectives of the concerned instrument. Oftentimes, implementation procedures are likely to provoke a cultural

³² Judith Squires, *Is Mainstreaming Transformative? Theorizing Mainstreaming in the Context of Diversity and Deliberation*, Social Politics: International Studies in Gender, State & Society, Volume 12, Issue 3, Fall 2005, Pages 366–388, <https://doi.org/10.1093/sp/jxi020>

³³ Emanuela Lombardo and Mieke Verloo, “*Institutionalizing Intersectionality in the European Union*,” International Feminist Journal of Politics 11, no. 4 (2009): 478–95; Kimberle Williams Crenshaw, “*Gender-Related Aspects of Race Discrimination*,” United Nations DAW, PHCHR, UNIFEM, Background Paper for the Expert Meeting November 21–24 (Zagreb, 2002).

³⁴ Supra

³⁵ Rebecca Tiessen, *Everywhere/Nowhere: Gender Mainstreaming in Development Agencies*, 2007; Vandana Desai, “*NGOs, Gender Mainstreaming and Urban Poor Communities in Mumbai*,” 90–98; Maria Stratigaki, “*Gender Mainstreaming versus Positive Action: An On-going Conflict in EU Gender Equality Policy*,” European Journal of Women’s Studies 12, no. 2 (2005): 165–86.

³⁶ Supra

³⁷ Carolyn Hannan, *Feminist Strategies in International Organizations: The United Nations Context*, in Feminist Strategies in International Governance (1 ed. 2013).

transition which cannot be supported by a nation as various policies could be too confusing or threatening for the people³⁸. One of the biggest challenges faced by any nation is moving beyond the cultural norms which, more often than not, are responsible for stereotyping roles and attributes of men and women depending upon the traditional definition of gender corresponding to that particular society. Accepting gender inclusive policies may pose an enormous cultural shock to communities and hence, become one of the biggest challenges in implementation. Nations have adopted approaches to further the concept of gender equality and mainstreaming to understand the factors that address differences in sexuality, gender, race, etc. together rather than separately.³⁹ However, this kind of an approach has not made much progress because it can lead to stereotyping of the aforementioned differences as if they were biologically fixed rather than socially and politically defined⁴⁰ – which again highlights the problem of people, organizations and policymakers not understanding the true meaning of ‘gender’.

Inclusion of women in peacekeeping troops also poses a complex challenge. Women’s capacity for peacekeeping may be more inclined towards ‘women-only’ groups (rather than mixed groups) which is efficient for issues such as sexual violence among other women-centric issues. However, this quality of women tends to vitalize women’s differences *from* men rather than emphasizing upon women’s equality *with* men. Another challenge that the countries face during implementation is inadequate follow-ups on the agreements achieved by states and a considerable gap in resource allocation and leadership on gender equality.⁴¹

In spite of unanimous adoption and ratification of the instruments mentioned previously, there is much debate and controversy around gender equality as states do not completely agree on all issues due to cultural, political and economic differences. This makes the problem a very complex one because there is no global standard which the nations must adhere to.

V. CONCLUSION

With the addition of new instruments and conventions in recent times to further strengthen the rights of women, there still are concerns when it comes to the implementation of the same. It can be concluded that the machinery created for the purpose of protection of human rights has not effectively played a role in the defense of women’s rights as well. This could be chalked

³⁸ Supra

³⁹ Emanuela Lombardo & Mieke Verloo, *Institutionalizing Intersectionality in the European Union?* 2009 International Feminist Journal of Politics, 11:4, 478-495, DOI: 10.1080/14616740903237442, 478–95; Supra

⁴⁰ Supra

⁴¹ Supra

up to the very narrow reference and powers that separate machineries possess which are created for women. Many nations, despite having ratified the discussed conventions and instruments, are confronted with problems particularly regarding effective implementation and inclusion of laws pertaining to gender equality and ending discrimination. Efficacious implementation needs to acknowledge the models, strategies, criticism along with cushioning the lacunae that have been found previously while implementation processes. This would essentially involve undergoing a cultural transition inclusive of awareness among men, women, boys and girls so that the mechanism is 'all-inclusive' in nature. More often than not, institutions do not strictly adhere to the policies and frameworks put in place in order to reduce the manpower and costs that are required for proper implementation. Additionally, gender mainstreaming is often collaborated with policies dealing with race, sexuality, caste, etc. which crucially and substantially removes the concept of 'gender' and 'gender equality' from the limelight. A clearer understanding of gender along with sensitization of people and policymakers about the same will certainly contribute to defining and framing gender-specific laws in a better manner. Reporting mechanisms often fail to show correct and authentic data because the cultural and social hurdles may perhaps restrain individuals from reporting atrocities inflicted upon them. Insufficiency and improper disbursement of funds combined with neglect towards the aforementioned issues are other reasons contributing to why nations are not able to effectively implement the instruments that they have ratified. Organizations such as United Nations Women must act as critical think tanks, provide academia for uncompromised input, support innovative projects and also exhibit the structural and financial ability to carry out the projects required to attain the desired goal. The same should be done by national governments in collaboration with various institutions and organizations that are able to carry out such programs. International gender politics and feminist strategies continuously need to be evaluated from a critical point of view because feminist actors will continue to persevere until women's rights are achieved in totality.
