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# Protection of Women under International Law

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GOURI N<sup>1</sup>

## ABSTRACT

*The world that we occupy reeks of patriarchal repercussions that have led to a definite asymmetry in the division of power between man and woman. The victimization of women was a corollary of such a division. Many international instruments contain extensive provisions seeking to forward gender equality, but the fact is that it is yet to be attained. A major obstacle of this is gender discrimination. While the general definition for gender discrimination is a situation where people are treated differently because they are male or female, as opposed to on the basis of skill or capabilities, this menace appears in society as various abhorrent acts. Long-standing traditions, cultural practices, and religious customs are some of the most prevalent contributors to gender discrimination, but laws and policies also have a role to play. The fight for the protection of women and to provide them their rights was set in motion in the international front since 1888 when the International Council of Women was established while the League of Nations was active. Later in 1904, the International Women's Alliance came about. These two organizations together lead to women's issues being considered as one of international importance and the establishment of the Nations Committee of Experts on the Legal status of women in 1937. As the years passed, the United Nations came into existence, bringing with it an awe-worthy framework to aid in the protection of women's rights. This paper analyses this framework, the major international instruments formulated, the Bodies of the UN that relate to this, and to also discuss the framework in action.*

## I. INTRODUCTION

*"International law now grants rights to all human beings, not only to citizens."*

***-Kofi Annan, Former Secretary-General of the United Nations***

The world that we occupy reeks of patriarchal repercussions that have led to a definite asymmetry in the division of power between man and woman. The victimization of women was a corollary of such a division. The term gender is defined as "the socially constructed roles, behaviours, activities, and attributes that a given society considers appropriate for boys and

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<sup>1</sup> Author is a student at Cochin University of Science and Technology, India.

men or girls and women”<sup>2</sup>. The position of men and women is influenced by political, economic, social, cultural, religious, ideological, and environmental factors, and so, society and community have the power of altering such positions. Gender equality means the equal rights, opportunities of men and women, and girls and boys<sup>3</sup>. Many international instruments contain extensive provisions seeking to forward gender equality, but the fact is that it is yet to be attained. A major obstacle of this is gender discrimination. While the general definition for gender discrimination is a situation where people are treated differently because they are male or female, as opposed to on the basis of skill or capabilities, this menace appears in society as various abhorrent acts. Long-standing traditions, cultural practices, and religious customs are some of the most prevalent contributors to gender discrimination, but laws and policies also have a role to play.

The fight for the protection of women and to provide them their rights was set in motion in the international front since 1888 when the International Council of Women was established while the League of Nations was active. Later in 1904, the International Women’s Alliance came about. These two organizations together lead to women’s issues being considered as one of international importance and the establishment of the Nations Committee of Experts on the Legal status of women in 1937. As the years passed, the United Nations came into existence, bringing with it an awe-worthy framework to aid in the protection of women’s rights.

This submission seeks to analyse this framework, the major international instruments formulated, the Bodies of the UN that relate to this, and to also discuss the framework in action.

## **II. THE INTERNATIONAL INSTRUMENTS**

### **(A) Universal Declaration of Human Rights**

The UDHR was adopted in 1948, which to this date, remains a huge milestone in the history of Human Rights at the international level. This instrument of international human rights proclaims that men and women have equal entitlement to the rights encompassed in it, with no distinction on any factors, and specifically states ‘sex’. Something way ahead of its time is how the declaration utilized the gender-neutral term “all human beings” and “everyone” as opposed to gendered terms that are more commonly used even in the current era. Such was done to shed light on the fact that the declaration was to benefit all.

Following the adoption of the UDHR, there came into existence the International covenant on civil and political rights and the International Covenant on Economic, Social, and Cultural

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<sup>2</sup> American Psychological Association. *Answers to your questions about transgender people, gender identity, and gender expression*. 2011 [cited 2015 February 1]; Available from: <http://www.apa.org/topics/lgbt/transgender.aspx>.

<sup>3</sup> <https://www.un.org/womenwatch/osagi/conceptsanddefinitions.htm>

Rights in the year 1966. Both these provisions also use similar terminology for preventing discrimination based on gender. The UDHR by virtue of Article.25 (2) provides that mothers and children are entitled to special care as well as assistance. Article 10 of the ICESR lays down that special protection is to be accorded to mothers before and after childbirth by virtue of its second sub-clause. Additionally it also provides that working mothers must be given paid leave or leave with adequate benefits for such period. In the year of 1967, the United Nations member states adopted the Declaration on the Elimination of Discrimination against Women which laid down, categorically that discrimination against women is an offense and urges states to “abolish existing laws, customs, regulations, and practices which are discriminatory against women, and to establish adequate legal protection for equal rights of men and women”<sup>4</sup>. A proposal to formulate a legally binding treaty for women’s rights was put forth a while later and thus came existence, The Convention on the Elimination of All Forms of Discrimination against Women was adopted by the General Assembly in 1979.

### **(B) CEDAW**

The United Nations Convention on the Elimination of Discrimination against Women, popularly known as CEDAW, is a comprehensive treaty that relates to the rights of women. Adopted by the UN general assembly in 1979, this treaty seeks to castigate all and any forms of discrimination against women, while upholding the significance of guaranteeing to all women, social, political, economic, cultural, and civil rights equal to that of men. It is oftentimes termed as the international bill of rights for women and sets out an agenda for national action to end discrimination, as defined in it.

So far, 189 countries, have ratified the convention, with India having signed it in July of 1980 following its ratification in 1993, with certain reservations. The convention has 30 articles and a preamble all seeking to eradicate discrimination faced by women. According to A.1, “discrimination against women” shall mean any distinction, exclusion or restriction made based on sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment, or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field”<sup>5</sup>. A reading of As. 1,2 and 3 illustrate that there must be equal economic, social, cultural, political, and civil rights for all women, irrelevant of their marital status, and for the same requires that there be enacted national legislation establishing a ban on such discrimination by the member states. A.4 puts forth permission to the states for the

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<sup>4</sup> A. 2

<sup>5</sup> <https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx>

adoption of any temporary measures that will aid in the hastened achievement of equality between men and women. Any action for the alteration of prevalent cultural practices that sustains discrimination is also to be taken by the nations and the same is encompassed under A.5. The convention directs state parties to employ appropriate measures to prevent trafficking and exploitation of women for prostitution<sup>6</sup>. The convention addressed the need for equal access to education for women under A.10 by stating that there must access to the same curricula<sup>7</sup> and scholarships<sup>8</sup> and also that stereotyped gender roles are to be eliminated from education by a revision of the textbooks and programs<sup>9</sup>. Equality of men and women before the law is to be accorded by the state parties as according to S.15 and A.16 requires the state parties to take appropriate measures to eliminate discrimination against women, in matters that relate to marriage and family relations, to further the equality between women and men in such institutions. Equality in the provision of healthcare services, including family planning services as well the duty of the states to ensure the availability of requisite services related to pregnancy, and post-natal period and also of nutrition required during these periods are laid down in A.12. Also, the convention explicitly lays down that special attention be given to women in rural areas.<sup>10</sup>

Various states, including India<sup>11</sup>, have made many reservations to the CEDAW to ensure that this treaty's domestic application will be limited. Many of these reservations are such that the authority of the domestic and religious laws, which are not in tune with the provisions of CEDAW, shall be preserved. Irrespective of such aspects, the CEDAW retains the titles of the most widely applicable human rights treaty that focuses upon the rights of women. While CEDAW does not explicitly address the issue of violence against women, the committee established under it laid down that violence against women is "violence directed against a woman because she is a woman or affects women disproportionately"<sup>12</sup>.

### **(C) Committee for the Elimination of Discrimination against Women**

Formulated for the purpose of monitoring the implementation of the CEDAW, the Committee for the Elimination of Discrimination against Women is a body of twenty three independent experts from around the globe. The state parties are bound to put forth to the committee regular reports on how the implementation of the Convention is underway. While in session, the reports

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<sup>6</sup> A. 6

<sup>7</sup> A. 11 (b)

<sup>8</sup> A. 11(d)

<sup>9</sup> A. 11 (c )

<sup>10</sup> A. 14

<sup>11</sup> India's reservation to Article 29(1)

<sup>12</sup> general recommendation No. 19 (1992)

from the states are reviewed and their concerns are addressed. The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, 1999 is an instrument that recognized the Committee's competence to deal with complaints from individuals or groups. When a state ratifies the Optional Protocol, the two procedures encompassed within becomes accessible. These procedures are; a communications procedure that will enable individual or groups of women to put forth claims for the violation of their rights, which are contained within the CEDAW, where such a course of action becomes available when all domestic rights are extinguished, and an enquiry procedure under which the committee is empowered to enquire into gross violations of rights<sup>13</sup>.

Another function of the committee is the formulation of the General Recommendations. As of November 2020, thirty eight such recommendations have been made, each of which have played significant roles in aiding and securing women's rights. These recommendations don't require ratification since they are not treaties and hence, are not legally binding.

#### **(D) UN Declaration On The Elimination Of Violence Against Women**

On the 20<sup>th</sup> of December in 1993, the UN declaration on the elimination of violence against women was adopted by the UNGA. This declaration successfully addressed physical, sexual, and psychological violence. According to the declaration, '*Any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life*<sup>14</sup>.' is what constitutes violence, and it is this definition that's most widely accepted. It also traces the history of gender-based violence and states that such violence against women is a "manifestation of historically unequal power relations between men and women"<sup>15</sup>. The instrument draws importance since it's the first one to have specifically addressed this issue. In 1994 a special rapporteur on violence against women, the causes and the consequence behind the same, was appointed by the Commission on human rights. This appointment significantly aided in the continuous and dynamic development of standards of Human rights in tune with contemporary challenges and other issues relating to violence against women.

Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others seeks to prohibit flesh trade of any person. Declaration on the Protection of Women and Children in Emergency and Armed Conflict of 1947 also seeks to protect women against indecent assaults that occur during times of war and conflict.

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<sup>13</sup> <https://www.un.org/womenwatch/daw/cedaw/protocol/text.htm>

<sup>14</sup> A. 1

<sup>15</sup> <https://www.ohchr.org/en/professionalinterest/pages/violenceagainstwomen.aspx>

In addition to these international human rights instruments, many regional instruments have also been formulated to protect women. Some of these are The African Charter on Human and People's Rights, 1981, read along with the protocol to the African Charter for Rights of Women in Africa (also known as the Maputo protocol), 2003, A. 18(3), The Arab Charter on Human rights, As. 3, 4, 10, 33, 34, 41, 43, The American Convention on Human Rights, A.1, The European Convention on Human Rights and Fundamental Freedoms, A.1.

### **(E) Global Commitments**

In addition to the mentioned instruments, many international conferences have been held and important political commitments have been made to women's rights and equality. Mexico City hosted the World Conference in the year of 1975, which was also recognized as the International women's year. This conference leads to the formulation of the World Plan of Action and the UN designating the decade of 1975-1985 as the UN decade for women. At another conference held in Copenhagen, in the year 1980, the CEDAW was opened for signatures. The third was held at Nairobi and all these three conferences saw extraordinary activism from women and this acted as the catalyst for the third and fourth world conferences. In 1993, the world conference was held in Vienna and had sought to examine the functioning of the Human rights mechanisms that were in place then. Here, various women's rights groups raised the cry "Women's Rights are Human Rights" while emphasizing violence against women as well as a tribunal that would deal with women's rights issues. The conference successfully adopted the Vienna Declaration and Programme of Action, which declares that "the human rights of women and the girl-child are an inalienable, integral and indivisible part of universal human rights"<sup>16</sup>. Additionally, this program also sought for the "the eradication of any conflicts which may arise between the rights of women and the harmful effects of certain traditional or customary practices, cultural prejudices, and religious extremism"<sup>17</sup>

In 1994, the International Conference on Population and Development was hosted in Cairo. Although the focus was on population, the issues that were taken up were all related to women's rights, specifically, gender equality, access to birth control, reproductive health, and even education of women. The program of action adopted had strong roots in Human rights and reads, "advancing gender equality and equity and the empowerment of women, and the elimination of all kinds of violence against women, and ensuring women's ability to control their fertility, are cornerstones of population and development-related programs"<sup>18</sup>.

The fourth conference was held in Beijing in September of 1995 and specifically focussed on

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<sup>16</sup> Para 18

<sup>17</sup> Para 38

<sup>18</sup> Principle 4, [https://www.unfpa.org/sites/default/files/pub-pdf/programme\\_of\\_action\\_Web%20ENGLISH.pdf](https://www.unfpa.org/sites/default/files/pub-pdf/programme_of_action_Web%20ENGLISH.pdf)

12 areas that related to the implementation of Women's rights and also laid out an agenda for women empowerment. The Beijing Declaration and Platform of Action was adopted by 189 governments and although it is not legally binding, has still been integral in the development of a progressive agenda for achieving gender equality. In 2005 and later in 2010, the declaration was reviewed, and the conclusion reached was that de jure and de fact equality were yet to be achieved in any country in the world. It was also concluded that in regions where legal reforms had been brought about, they were not effectively enforced.<sup>19</sup>

As the new millennium came about, so did the millennium development goals. The international community concurred to meet, by the end of 2015, eight development goals, one of which was gender equality and the empowerment of women<sup>20</sup>. The Millennium Development Goal 3, though was not completely achieved, has led to many achievements.

Held in Brazil in 2012, the United Nations Conference on Sustainable Development was to appraise the implementation and progress of the various agreements in place since the 1991 UN Conference on the Environment and Development. Here, the states agreed to institute sustainable development goals, and the outcome document, titled 'the future we want' reiterated the countries' commitment to the equal rights of women. Accelerating the implementation of the commitments under CEDAW and the Beijing Plan of Action and the MDGs are all explicitly mentioned herein.

### **III. THE BODIES OF THE UNITED NATIONS**

#### **(A) The Human Rights Council**

The main intergovernmental body seeking to promote Human rights in the UN is The Human Rights Council. It has 47 member states who are elected by the UNGA. They have been regularly holding special panels on Women's rights since 2006. Similar to its predecessor the Human Rights Commission, the UNHRC has various resolutions that call upon the states to implement their Women's rights obligations. They also have a universal period review is a mechanism wherein the Human Rights situation in all the member states of the UN are reviewed every four-and-a-half years. Women's rights issues are frequently raised for the UPR recommendations. The UN HRC also appoints many special procedures mandate holders to analyze specific thematic issues in the various counties. Of these, some are especially involved in the aspect of women's rights such as the Special Rapporteur on violence against women, its causes and consequences, the Special Rapporteur on trafficking in persons, women, and children, and the Working Group on the issue of discrimination against women in law and

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<sup>19</sup> E/2010/4–E/CN.6/2010/02, paras. 307–310.

<sup>20</sup> The Millennium Development Goal 3



practice. The work done by such persons helps understand, analyze and improve women's rights around the world.

### **(B) The Security Council**

The UNSC has adopted multiple resolutions that seek to protect women. Resolution 1325, adopted in 2000, calls for special measures for the protection of women and girls from gender-based violence during armed conflict. In the follow-up resolution 1820 of 2008, the UNSC stated that sexual violence may obstruct the restoration of peace after war and emphasized that such violence is to be excluded from all amnesty provisions during peace processes.

### **(C) The Commission on the Status of Women**

Established by the UN Economic and Social Council Resolution 11(II) of 21 June 1946, the Commission on the Status of Women has the duty "to prepare recommendations and reports to the [Council] on promoting women's rights in political, economic, civil, social, and educational fields"<sup>21</sup>. The Commission also has the responsibility of making recommendations relating to the "urgent problems that require immediate attention in the field of women's rights." The commission issues 'agreed conclusions, which are an assessment of the progress, the obstacles, and also recommendations to the Governments, International organizations, the society, and to the other various stakeholders, after meeting once a year. Ever since its institution, the Commission has been integral in promoting Women's rights and has also contributed to the various instruments such as CEDAW, The UN Declaration on the elimination of violence against women, the Beijing platform of action.

## **IV. THE FRAMEWORK IN PRACTICE**

The following are some scenarios wherein the abovementioned framework was put to practice. The asymmetrical division of power between men and women that has crept into society has led to a rise in violence against women. Violence against women, also termed as VAW, is defined to mean "any act of gender-based violence that results in, or is likely to result in, physical, sexual or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life."<sup>22</sup> This definition sheds light on how VAW can manifest itself via various forms, including sexual violence, domestic violence, and even genital mutilation. The following cases came up before the Committee on the Elimination of Discrimination against Women regarding domestic violence.

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<sup>21</sup> <https://www.unwomen.org/en/csw>

<sup>22</sup> UN G.A. Res. 48/104, *Declaration on the Elimination of Violence against Women*, A/RES/48/104, 20 December 1993, art. 1.

In *A.T. v. Hungary*<sup>23</sup>, A.T was a woman who had been severely physically abused at the hands of her husband but the Hungarian law failed to provide to her a mechanism to obtain protection. The Budapest court held that her claims lacked substantiation, leading to her complaining to the CEDAW Committee. The committee ruled that Hungary was responsible for the violation of A.T's human rights and hence violating their obligations under As. 2(a), (b), and (e), A.5(1) and A.16 of CEDAW. They recommended that the state assure victims of domestic violence maximum protection under the law with due diligence and to prevent and respond to such claims of violence.

In *Şahide Goekce (deceased) v. Austria*<sup>24</sup>, the contention was that the state had failed Ms. Goekce, who was killed by her husband following continued domestic violence which had been reported to the police. The police knew that her husband has intentions to kill her and also was aware that he had a handgun, yet had taken no action. The committee held that the police were accountable for failing to protect her. They held that Austria had violated its obligations under A.2 and A.3 of the CEDAW. Recommendation to strengthen the implementation and monitoring of the Federal Act for Protection against Violence within the family. In *Fatma Yildirim (deceased) v. Austria*<sup>25</sup>, communication No. 6/2005, here too, the victim had been killed by her husband following multiple threats that had been reported to the police. Here too, the committee was of the opinion that the police were accountable “for failing to exercise due diligence to protect the victims’.

There also exists state condoned violence, referring to the gender-based violence that happens during conflict, extrajudicial killing, violence while in custody, and violence against refugee, internally displaced and minority group women. Such a scenario was dealt by the International Criminal Tribunal for Rwanda. The tribunal dealt with rape as a war crime in *Prosecutor v. Jean-Paul Akayesu*<sup>26</sup> and laid down a broad definition that placed rape on an equal footing with crimes against humanity. The Tribunal defined rape as a “physical invasion of a sexual nature, committed on a person under circumstances which are coercive.” this decision is of importance since it pioneered the recognition of sexual violence as a constituent of a genocidal campaign. Honour killings are also a prevalent threat against women worldwide. What causes more worry is how such violence is prevalent amongst women irrelevant of socio-cultural barriers and also educational levels. Such violence has succeeded in lowering women into second-class citizens. This issue gathers international concern owing to this very reason.

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<sup>23</sup> CEDAW/C/39/D/2/2003, Comm. 2/2003, U.N. Doc. A/60/38, at 27 (2005)

<sup>24</sup> CEDAW/C/39/D/5/2005, Comm. 5/2005, U.N. Doc. A/62/38, at 432 (2007)

<sup>25</sup> CEDAW/C/39/D/6/2005

<sup>26</sup> Case No. ICTR-96-4-T, 2 September 1998,

Since the 1990s, VAW had gained much momentum in the human rights discourse, yet the journey to get a discussion started amidst the international community and to persuade them to recognize such gender-based violence as a violation of Human Rights, took a long and continuous struggle by various women rights movements.

A key area of Women's rights and protection is sexual and reproductive rights and health. This includes sexual health information and education, along with family planning, maternal healthcare, and also HIV/AIDS testing and treatment. The General Recommendation No.21 (1994) of the Committee on the Elimination of Discrimination against Women states that "in order to make an informed decision about safe and reliable contraceptive measures, women must have information about contraceptive measures and their use, and guaranteed access to sex education and family planning services, as provided in article 10 (h) of the Convention.<sup>27</sup>" In the case of *Alyne da Silva Pimentel Teixeira (deceased) v. Brazil*<sup>28</sup>, the victim was an Afro-Brazilian woman who died owing to postnatal complications following a stillbirth. There was a failure in diagnosing her complications as well delay in treating her. They also delayed referring her to a hospital that the facilities that could have saved her. The committee laid down that it was a violation of the state's obligations under CEDAW, namely A.12, A.2 (c) and (e) as also of A.1. The committee highlighted that it was the states that were responsible for the actions of private medical institutions since it was the outsourcing of its medical services. Additionally, they held that maternal health services be such that they meet the needs of women.

An unavoidable aspect under SRHR is the access to safe and legal abortions, yet very few international and regional instruments address this issue. The medical practice of abortion is one of significance that directly affects women, and hence an area for which women must be provided with specific protection. The Maputo Protocol, A.14 (2) (c) is an instrument that explicitly addresses abortion. In *L.C. v. Peru*,<sup>29</sup> L C was a 13-year-old girl who had been impregnated as a result of rape. Upon finding out that she was pregnant, she attempted suicide but survived sustaining injuries to her spine that required surgery. She requested a legal termination of her pregnancy so that she could undergo said surgery, but the request was denied since her life was not endangered. After 3.5 months, she miscarried and had surgery, which resulted in her being paralyzed from the neck down. The committee was of the opinion that there had been a violation of her right to health since the dismissal of her request for an abortion was denied without taking into consideration her mental and physical health. Similarly, in

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<sup>27</sup> Para. 22, <https://www.refworld.org/docid/48abd52c0.html>

<sup>28</sup> CEDAW/C/49/D/17/2008 (2011)

<sup>29</sup> CEDAW/C/50/D/22/2009

*L.M.R. v. Argentina*<sup>30</sup> decided by the Human Rights Committee, a minor girl who suffered from intellectual disability had been impregnated owing to her having been raped by her uncle. Her request for legal abortion was denied. The committee had concluded that there was a violation of A.7<sup>31</sup> of the ICCPR since the refusal of her request to termination, which in this scenario was in tune with Argentinian law, caused her ‘physical and mental suffering.’ The state party was called to provide her redress including compensation.

Forced sterilization is also an area where the rights of women have been protected. Medically assisted procreation is also such an area. In *A S v Hungary*,<sup>32</sup> the CEDAW committee had an opportunity to deal with such a situation. A roman origin woman was forcefully sterilized in a public hospital. The committee held that the state had violated the woman’s right under As.10 (h), 12 and 16(1) (e) of the CEDAW. The committee hence recommended that the woman be given requisite compensation and that it amend its Public Health Act.

Education and the public and political lives of women are sought to be advanced and safeguarded owing to the barriers that exist in the systems. The framework established puts an onus upon the states to remove such hindrances. Another area is that of Marriage and Family. With respect to marriage, by virtue of A. 16, CEDAW can be interpreted to mean that women have the right to choose whether, when and whom to marry. A woman is also provided with the rights to family and being a parent. A. 16 (1) (e) of the CEDAW provides for family planning, as discussed above and so, it is women who have the right of deciding how many children she has.

Another important decision by the Committee on the Elimination of Discrimination Against Women was in *Vertido v. Philippines*<sup>33</sup>, wherein there arose a discussion on stereotyping by the judiciary. It was stated “that stereotyping affects women’s right to a fair and just trial and that the judiciary must take caution not to create inflexible standards of what women or girls should be or what they should have done when confronted with a situation of rape based merely on preconceived notions of what defines a rape victim or a victim of gender-based violence, in general.” there was a preconceived image of who could constitute an ‘ideal victim’, that is what the judge considered as being ‘rational’ and ‘ideal’ responses of a victim of rape. The committee ordered multiple wide measures targeted at the legal system, to improve the way rape cases were handled and also the training and education of the system to change such discriminatory practices against victims.

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<sup>30</sup> UN Doc. CCPR/C/101/D/1608/2007

<sup>31</sup> No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation

<sup>32</sup> CEDAW/C/36/D/4/2004

<sup>33</sup> CEDAW/C/46/D/18/2008

## V. PROTECTION OF WOMEN UNDER OTHER AREAS

### (A) Humanitarian Law

The Geneva Conventions provide for the protection of women in various circumstances. The fourth convention requires that women be protected from rape, enforced prostitution, or any form of indecent assault<sup>34</sup>. The additional protocols also encompass much such protection of women.

### (B) Criminal Law

Rape, slavery, forced prostitution, and sterilization are considered as crimes under A.7 of the Rome Statute of the International Court of Justice. Those individuals, who commit such offenses as a large-scale practice may be investigated and prosecuted by the ICJ, with consideration to its jurisdictional limits. The international criminal tribunal for Rwanda and Yugoslavia has adjudicated many such cases of violence against women during conflict<sup>35</sup>.

### (C) Labour and Employment Law

The International Labour Organization has various conventions that seek to protect working women and for equal treatment. Elimination of gender discrimination in remuneration is addressed in the ILO Convention No.100, and also maternity leave with financial benefits is provided for in the 183<sup>rd</sup> ILO Convention.

## VI. CONCLUSION

Many believe that specified instruments for protection are futile in the current times owing to the evolution of society. Such an opinion reflects the apathy of such persons to the abhorrent crimes that women are exposed to in their everyday lives. The discussion above sheds light on the various instruments, commitments, and specialized bodies of the UN enacted and established for the protection of women and their rights. The actual working of the framework has also been elucidated with emphasis on decisions by the stakeholders of the framework. A mere glance at the world around us, unfortunately, will tell us how much farther we have yet to go to ensure absolute and untainted protection to women.

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## VII. BIBLIOGRAPHY

### (A) Book

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<sup>34</sup> Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War

<sup>35</sup> Ibid 25, *Prosecutor v. Jean-Paul Akayesu*

- Hellum, A. & Aasen, Henriette. (2011). Women's human rights: CEDAW in international, regional, and National law. 10.1017/CBO9781139540841.

**(B) Websites**

- [http://www.ilo.org/wcmsp5/groups/public/---dgreports/-gender/documents/publication/wcms\\_087314.pdf](http://www.ilo.org/wcmsp5/groups/public/---dgreports/-gender/documents/publication/wcms_087314.pdf)
- <https://blogs.lse.ac.uk/vaw/int/cedaw/general-recommendations/>
- [https://ihl\\_databases.icrc.org/applic/ihl/ihl.nsf/Treaty.xsp?action=openDocument&documentId=AE2D398352C5B028C12563CD002D6B5C](https://ihl_databases.icrc.org/applic/ihl/ihl.nsf/Treaty.xsp?action=openDocument&documentId=AE2D398352C5B028C12563CD002D6B5C)
- <https://ijrcenter.org/thematic-research-guides/womens-human-rights/>
- <https://juris.ohchr.org/Search/Details/1700>
- [https://legal.un.org/icc/statute/english/rome\\_statute\(e\).pdf](https://legal.un.org/icc/statute/english/rome_statute(e).pdf)
- <https://projects.iq.harvard.edu/violenceagainstwomen/publications/l-c-v-peru>
- <https://www.escr-net.org/caselaw/2013/lmr-v-argentina-un-doc-ccprc101d16082007>
- [https://www.law.cornell.edu/women-and-justice/resource/as\\_v\\_hungary](https://www.law.cornell.edu/women-and-justice/resource/as_v_hungary)
- <https://www.mdgmonitor.org/mdg-3-promote-gender-equality-and-empower-women/>
- <https://www.ohchr.org/Documents/Events/WHRD/WomenRightsAreHR.pdf>
- <https://www.ohchr.org/en/professionalinterest/pages/violenceagainstwomen.aspx>
- <https://www.refworld.org/docid/48abd52c0.html>
- <https://www.un.org/en/chronicle/article/brief-survey-womens-rights>
- <https://www.un.org/womenwatch/daw/cedaw/protocol/text.htm>
- <https://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>
- <https://www.unwomen.org/en/csw>
- <http://archive.ipu.org/wmn-e/law.htm>
- [http://www.worldcourts.com/cedaw/eng/decisions/2007.08.06\\_Goekce\\_v\\_Austria.htm](http://www.worldcourts.com/cedaw/eng/decisions/2007.08.06_Goekce_v_Austria.htm)
- <https://www.icrc.org/en/doc/assets/files/publications/icrc-002-0173.pdf>.

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