

International Rules For Women's Rights: A Challenge Of Values

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Introduction

One of the most important social characteristics of the present century may be the efforts carried out at national and international levels to ameliorate women's conditions and to obliterate sex inequalities. While the constructive role of women and governmental measures cannot be denied, the United Nations Organisation played no small part in earning international support for women's rights which can be evaluated.

Fifty years after signing the United Nations Charter as the first international agreement which considered sex equality as the fundamental principle of human rights,^{[1](#)} the UN has created a collection of historical heritage including conventions, strategies, standards, practical programs and international conferences for women's advancement.^{[2](#)} The United Nations Charter approved the equal rights of men and women and provided that the activity of the Organisation should be done without discrimination of any kind due to sex, language, race and religion.

However, this, in practice, has never been sufficient. Therefore, decades of fighting to mobilise the words of the Charter in respect to women's rights and to achieve a proper status were required, so that the issue of women together with poverty, unemployment, population growth, violation of human rights, and the destruction of the environment gained universal attention and the role of the United Nations Organisation became significant with respect to this issue.^{[3](#)}

Among the international documents presented for the betterment of women's status, Convention on Elimination of All Forms of Discrimination Against Women (referred to as the Convention herein) is the most important document which constitutes the basis for the ideas of the United Nations in this regard. This Convention is the outcome of the thirty-year efforts of the Commission on Status of Women

approved by the General Assembly in 1979 and which has become binding since 1981. This Convention has 154 members at present and has the second place after Convention on Rights of Children in respect to number of Member States among the international treaties on human rights.⁴

The ideal of the Convention is to achieve a society throughout the world in which men and women have equal rights, a society in which traditions, habits, beliefs and value systems of the past and the present are questioned and new forms of egalitarianism are established based on the new thought. The exercise of its principles requires the following of the policies, programs and legislations at national level. To what degree this idea is *per se* practical deserves due contemplation.

While the United Nations Organisation believes that this Convention is the most important binding document for elimination of discrimination against women, the large number of reservations of the Member States are also very important. Although many discussions are brought up on the validity of such reservations, the conditional acceptance of approximately 49 Member States, some of which have objected to major basic principles of the Convention⁵, has challenged its complete execution. While different countries, even the western countries have adopted various reservations, the reservations of Islamic countries have gained more attention and have become an important issue both for the United Nations and for the Islamic States as well.

Reservations of Islamic countries toward this Convention which have mainly conditioned their execution to their conformity based upon Islamic rules (*Shari'ah*) have led to this belief that Islamic principles are an obstacle in eliminating discrimination against women and therefore terms such as Islamic Tradition and Islamic Restrictions are brought up without offering a clear definition or a proper understanding of them. They examine the status of Muslim women in the light of Western values, claiming that Muslim women are under suppression and slavery.

Also by statistical analyses and through comparing the results with their own data and without any consideration due to the differences in cultural environments and legal institutions relating to women such as marriage, and inheritance, they claim that women's legal system does not exist only in Islam. Based on the same data, they refer to the advancement of Western women and the backwardness of Muslim women and prescribe Western patterns for the amelioration of their condition.

The purpose of this article is to study the challenge between the international standards of women's rights and the beliefs and values of the Islamic societies. This challenge reveals itself in conformity with the provision of the Convention. Besides, this basic question remains: can women's rights be universal? To what degree are the internationally known standards of the convention binding for societies with different traditions and value systems? What is the cultural legitimacy of the international means of women's rights? Of course, these questions can be discussed within the broader topic of universality or relativity of human rights values, which demands a lengthy discussion.

In order to study the cases noted above, a brief glance will be cast at the Convention. Then, in the

second part, the term reservation is generally defined and reservations of Islamic countries discussed. The fundamental challenge between Islamic views and the international standards of women's rights shall be the next issue discussed and at the end, the cultural legitimacy of woman's rights is analysed. The article ends with a conclusion.

Women's Convention: Characteristics

As discussed earlier, the United Nations has played an important role in developing international means for human rights. Without intending to evaluate the nature and outcome of such means, we can consider the following characteristics for the attention of the United Nations Charter to the human rights:[6](#)

- 1) Commitment to all human beings (at international level)
- 2) Equality or indiscriminate (without discrimination of any kind due to race, sex or religion)
- 3) Importance of international co-operation system in elevating human rights (Entering into treaties)

Women's Convention can be considered a means to achieve the point noted above. This Convention consists of thirty articles. The core of the convention is to condemn discrimination as the main root of sex inequality, which demands equal rights, equal standards and equal treatment of women in the societies.

According to Article 1, discrimination against women applies to any discrimination, exclusion (deprivation) or restriction due to sex, the result or purpose of which is to impair or destroy the recognition, enjoyment or exercise of human rights and essential freedoms in political, economical, social, cultural, civil matters concerning women regardless of their marital status and based on equal rights of men and women.[7](#)

Condemning it in Article 2, it demands for the practical steps of governments in eliminating discrimination. Such steps include adopting policies for eliminating discrimination, incorporating the principle of equality of men and women in the constitutions or other relative laws of each country practical realisation of this principle, ratifying appropriate laws and or other steps such as predicting punishments, if required, to prohibit discrimination against women, legal support for women's rights based on equality with men, preventing any discriminatory act, adopting all proper means for eliminating discrimination against women by any individual or organisation and adopting appropriate policies such as annulling laws for the purpose of amending or nullifying laws, customary regulations or existing manners which might be discriminative against women and abrogating all national penal regulations which cause discrimination against women.

As we see, the Convention looks for *De Facto* rules rather than merely *De Jure* laws and seeks to eliminate discrimination. Article 3 of the Convention also indicates the appropriate steps of Member States to guarantee the advancement and complete development of women based on equal

opportunities with men. The members allocate article 4 to adopting special temporary steps in order to accelerate the realisation of equal rights of men and women.⁸

In two paragraphs, Article 5 stresses the modification of social and cultural behavioural patterns of men and women in order to eliminate prejudices and all traditional customs, etc. demanding for common responsibility of men and women in proper upbringing of their children.⁹ In the next articles, this Convention deals with all fields relating to women's rights including political participation, nationality, education, employment, healthcare, economical and social life, women in rural areas, equal rights of men and women before the law, as well as affairs relating to marriage, divorce and family relations. (Articles 7–16).¹⁰ Then in Articles 17 through 30, the Convention discusses the executive mechanism of the Convention. Also, the formation of the committee for Elimination of all forms of discrimination against women as the core of the Convention and reporting system as a mechanism for supervising the exercise of the provisions of the convention are considered.

As it can be seen, the Convention defines women's rights in family and private life as well as in the society. In general, we can categorise the characteristics of the Convention under three topics:

- A) Condemning discrimination as the root of sex inequality
- B) Specifying the vast areas of discrimination against women
- C) Moving towards practical steps for condemning and eliminating discrimination through various mechanisms.

One of its important features is that it deals with such issues as family relations and rural women who were not formerly subject to international law. The convention was accepted by governments more rapidly than the other international instruments for human rights and became binding earlier than any other international treaty on human rights.¹¹ Now that we intend to study the various reservations toward the Conventions especially by Islamic countries, we shall try to elucidate them.

Women's Convention and Reservation: Position of Islamic Countries

One of the major issues in International Law of Treaties is the concept of Reservation. According to Article 2 of Vienna Convention on Law of Treaties, reservation is the unilateral declaration of a country at the time of signing, approving, joining or accepting a treaty by virtue of which the concerned country asks for exception or modification of the legal effects of specific regulations of that given treaty in respect to the above-said country.¹² This rule is internationally accepted and we can find evidence for it in the manner which countries join different conventions.¹³

As for the concerned convention, up to 41 countries from the total 154 members have declared

reservations to one or more of its articles. [14](#) Of course, it should be mentioned that some of these reservations are necessarily executive procedures and relate to Article 29 (1) of the Convention which recognises the competence of International Justice Tribunal for solving disputes resulting from its execution. Reservation toward paragraph 1 of this Article has been recognised to be valid by virtue of paragraph 2 of the same Article. [15](#)

Of course, the effects of the reservations on the relations of states, which have joined the treaty, have been a matter of dispute regardless of the considerable number of reservations. In one point of view, treaties on human rights are different from other international treaties in the fields of commerce, trade and transportation, which are usually bilateral and embody mutual privileges for the Member States. In this type of treaty, the governments can adopt reservations concerning sovereignty of the government and restrictions of this sovereignty.

However, human rights multilateral treaties do not have universal legal effects in International Law and their obligations are *Orga Omnes*. [16](#) These treaties show the obligations of governments before their citizens. The fact is that many countries have approved human rights treaties with reservation. Two covenants on Civil and Political Rights and Economical, Social and Cultural Rights, Women's Convention and Convention on Children's Rights are among them.

Acceptance of these reservations has also been a matter of conflict. Some insist on the totality of the convention and on refusing any reservation, believing that reservation reduces the universality and efficiency of such conventions. While others believe that increase in the number of the Member States of each treaty adds to its universal validity and governments should be encouraged to join it even with reservation. [17](#)

In general, three types of reservations can be identified in respect to treaties which apply to Women's Convention as well: [18](#)

- A) General reservation
- B) Reservation toward main articles
- C) Reservation toward substantial articles

In general reservation, special articles of the treaty are not usually taken into account and only a general reservation and exclusion of specific cases are requested. General reservation is usually based on the religion or the legal system of a country. Reservation toward main articles includes conditions indicating the articles, which are important and required for the implementation of the other parts of the treaty. Reservation toward substantial articles alludes to those reservations, which express performance of specific duties, regulations and different methods for achieving the goal.

Concerning women's Convention, we should say that different countries have demanded different

reservations based on their policies. For example, Libya established a general reservation and accepted the convention if its measures is not contradictory to Islamic religion. Of course, after investigating the first national report and related discussion , this country modified a number of reservations to specific cases.¹⁹ A certain number of reservations include the main articles of the Convention. The main articles of this Convention are articles 1 through 5. The commentators have emphasised that the execution of the first five articles is crucial for achieving the goals of the Convention but still many countries have adopted reservations in respect to these articles.²⁰

The most important of these reservations is stated by Islamic Countries due to their contradiction with Islamic standards. The commentators see such reservations unfounded and against the spirit of the Convention and the demands of the Convention from the governments. In cases where these reservations are not accompanied with a special reason, their legal and executive state becomes more complicated.

The general recommendation of the Committee for Elimination of All Forms of Discrimination Against Women (referred to as the Committee herein after) has asked the Member States as well as the States which have not yet joined the Convention but intend to approve it with reservation, to express their reservations lucidly and specifically so that the assumed obligations of the Member States be specified.²¹

A number of states have also adopted reservation toward the main articles of the Convention. Concerning the relatively large number of paragraphs relating to the main articles, the reservations are innumerable. In general, articles 9, 15 and 16 have allocated most of the reservations to themselves. Of course, Article 28 of the Convention, approving reservation in the first paragraph, say, “Those reservations which do not conform with the objective and purpose of the convention shall not be accepted.” Nevertheless, it fails to introduce any institution to accept the validity of the presented reservations and this is *per se* one of the problems to the Convention’s reservations.²²

Due to the importance of the reservations in respect to human rights treaties, the International Human Rights Commission has prepared a resolution on the normal reservations of human rights multilateral treaties supposed to be discussed in the 1997 meeting of the Commission. Based on this resolution, the Commission sees the measures predicted in Vienna Convention 1969 in relation to reservations of human rights treaties quite applicable. It also states, “While human rights treaties do not discuss the competence of the basic principles of the treaties for recognising the validity of the reservation, their foundations necessarily have such competence.

Therefore, there is a developing approach toward the active role of the basic principles of human rights treaties for recognising the validity of the reservations and identifying those reservations, which are against the objectives and principles of the treaties.”²³

Ms. Rosaline Higgins, former expert on Human Rights Committee and the only female judge of

International Court of Justice says, “A balance should be established between the legitimate role of governments in support of their national interests and the legitimate role of the basic principles of treaties for improving the effective guarantee of human rights.”[24](#)

With regard to the experiences of the Committee in modifying some of the reservations, the present ruling view is that approving the Convention even with reservations which might be against the spirit of the Convention, should be tolerated and that such reservations should be eliminated by different mechanisms. Now, we shall study the reservations of the Islamic countries as the main purpose of this article.[25](#)

The Position of the Muslim Countries

Thirty-three countries, which are members of Organisation of the Islamic Conference have already joined the Convention the majority of which are African countries. Egypt, Libya, Tunisia, Algeria, Jordan, Turkey, Pakistan, Bangladesh, Iraq, Malaysia, Indonesia, Sudan, Morocco, and Kuwait are among them.[26](#) Of course, the Islamic Republic of Iran has not yet joined this Convention.[27](#) Apart from Iran, Saudi Arabia, Afghanistan and United Arab Emirates have not approved the Convention. All the countries mentioned above have approved the Convention with reservations. Their reservations mainly concerned Article 9 that is the issue of nationality and Article 15, complete equality before law and Article 16, different paragraphs relating to family relations, marriage, divorce and common responsibilities of married life. The majority of these countries have raised the common reason of contradiction with Islamic laws. In order to define the case better, let us look at the following table.[28](#)

Article 2: Bangladesh (paragraph 2), Iraq, Jordan (paragraph 2), Libya, Morocco (declaration), and Egypt (paragraph 2)

Article 7: Malaysia

Article 9: Bangladesh (paragraph 2), Iraq, Jordan (paragraph 2), Egypt (paragraph 2), Libya, Morocco (paragraph 2), Tunisia (paragraph 2) Turkey (paragraph 1)

Article 15: Jordan (paragraph 4), Morocco (paragraph 4), Tunisia (paragraph 4), and Turkey (paragraph 2 & 4).

Article 16: Bangladesh I ,c, p– Egypt (for divorce rules), Iraq (the whole article). Jordan (Article 16 and c, d, y), Morocco (Article 6: rights and obligations of the spouses) Tunisia (Article 16. c. d, p, y, h) Turkey (Article 16, g, f, d, c,)

Pakistan has also submitted a declaration for execution of the provisions of the Convention in case they comply with the Constitution of Pakistan, which is inspired by Islam. Tunisia also states through general declaration that this country undertakes no organisational measure and statutory rule against the provision of the First Chapter of the Tunisian Constitution.[29](#)

Morocco has also claimed to stick to Islamic standards in respect to rules relating to women while Turkey, which is deeply secular, and claims politics to be independent of religion, has adopted reservations more or less the same as other Muslim countries. Of course, it is worth reminding that it is not just the Islamic countries which have announced reservations. Countries such as United Kingdom, Germany, Spain, Belgium, Luxembourg, Australia, ...[30](#) have also placed restricted reservations. The collection of various reservations of the countries toward this Convention has led to many discussions in the Committee, raising objections toward validity of the reservations specially reservations of Islamic nations. Finland, Norway, the Netherlands and Mexico were among them.[31](#)

The problem of the reservation toward the Convention became a political problem inside the Committee and it was stated that movement against reservations is anti-Islamic.

In the years 1986 and 1987, numerous discussions were made in the Committee for Elimination of Discrimination. In 1987, after examining a large number of reports from Islamic countries, the Committee asked the United Nations to investigate into the status of women in Islamic Law and also the Islamic traditions and customs. This request of the Committee raised severe enmity in the Economic-Social Council of the United Nations and was refused.[32](#)

Of course upon the increase of the number of Islamic states who joined the Convention and their reservations and the actual confrontation of the Committee with the issue, the Committee insisted on its request again and recommended that a review of the case would be very useful, but due to differences of opinions, no agreement was concluded.[33](#)

Of course, the General Assembly of the UN passed a resolution in 1988 and without mentioning the word reservation, asked the governments to fulfil their obligations toward the Convention. Because of repeated discussions and upon receipt of periodical reports, a number of countries modified the number and nature of their reservation. As an example, we can name Libya, which was earlier explained.[34](#)

Conflict of Ideas

Conflict between internal laws and international treaties is always of great importance. As pointed out earlier, the proper solution is to take advantage of reservation. Nevertheless, as to human rights treaties it is different. Of course it was said that reservations of governments in respect to these treaties are valid but the point is that the governments sometimes commit to conventions under international pressures and even internal pressures for fulfilment of which the governing value system shall be challenged. Evidently, there is a discrepancy between international standards of human rights and the principles of Islamic *Shari'ah*.

Women's convention is placed in the same category. While there are different interpretations of Islam, some principles and traditions are equal in all Islamic sects. Their principles and traditions, which have a

substantial origin in Islam, have a fundamental difference with the Western view.

Many of the behavioural patterns specially women's behaviour in Islamic countries are not equal to the equality pattern in the Convention and the basic hypothesis of dissimilarity of man and woman and their complementary function which is a basis in Islamic approach cannot conform to the Western pattern.

Universal standards of human rights which are mostly the work of Western countries, as any other value system, are based on the cultural and philosophical ideas of its own base.

Human rights today as proposed and supported by the Western countries are historically and ideologically their own property and their main principles emanate from values of the Enlightenment Age and the Individualism.^{[35](#)} The Universal Declaration of Human Rights and others including Women's Convention are inspired by these values. There have sometimes been discussions between the Western states and the representatives of the third world countries. Western mentality is dominant and it is natural that they try to implement it as a means for part of their universal domination.

Now, let us consider the main differences between the two outlooks: The conflict between Islamic values and the international standards and reservations of Islamic Countries toward the Convention are not a result of discriminatory approach of Islam towards women. It is clear to everybody that the Holy Qur'an revived women's rights. The changes brought by Prophet Muhammad's Religion in the life of the women of his age are not comparable with any other changes. Everybody acknowledges that the Qur'an has elevated women's status and has taken radical measures for human values and women's gain.^{[36](#)}

In order to provide a better picture of women's status role in Islam, two things should be differentiated: Islam as a religion and Islam as a culture.^{[37](#)} Islam as a religion, which embodies spiritual beliefs and rules, does not maintain that there is any difference between men and women. Men and women are equal in dignity. The reasons for this are numerous verses in the Holy Qur'an.^{[38](#)}

The criterion for human value is virtue and piety is the sign of man's superiority to others, without regard for sex, colour, race, etc. The only point of differentiation is piety and virtue. But in Islam as a culture, that is the Islamic *Shari'ah* in the whole collection of norms of social, economic and legal standards which adjust and regulate the private and public relations, women are different from men, and although they are different, their rights and duties are equal.

Due to their nature, they are not the same in many respects and this requires their difference in respect to rights, duties and punishments. In Islam, this dissimilarity does not mean superiority of one over another but merely reveals itself in performing different duties. This dissimilarity is defined by virtue of a number of verses in the Holy Qur'an^{[39](#)} and the tradition of the Holy Prophet. This issue embodies one of the most fundamental concepts in Islam, equality.

There is no doubt that the requirement for common human dignity of man and women and their equality in respect to humanity, is equality of their human rights. In other words, as in Islam, men and women are not created identical, the principle of similar rights does not intervene but equality exists based on

Therefore, in Islam, political, social and particularly economic rights of women are of great importance. The history of the beginning of Islam is indicative of the political roles of women. The example of “Bay’at alRazvan”[41](#) is one of the most evident ones. As the other teachings of Islam were not practised in the real sense, women’s rights were also interpreted differently, the dissimilarities increased in practice, and the constructive role of women in Muslim societies gradually fell into oblivion. Many of the restrictions imposed on women in Islamic countries are not rooted in the Qur’an but originate from ethnic traditions.

The existence of different Islamic sects, ethnic customs and habits has penetrated into the behaviour of the people in Islamic societies, thus making it very difficult to differentiate between them and the true spirit of Islam. It is evident that the original sources of Islamic Law can be used in the direction of equality of women in social, political and economic fields and in using social facilities such as education, health and employment but the practical realisation of this is faced with problems due to varying reasons.

Despite the rights fixed for women in Islam, lack of accurate understanding of the *Shari’ah* in a number of Islamic societies and interference of ethnic rituals and traditions has caused women’s rights to be disregarded. The most important challenge between international and Islamic standards relates to family relations and adjustment of private life between husband and wife. As indicated earlier, Article 16 of the Convention has elicited some reservations. In fact, non-Islamic countries have also made reservations toward this Article[42](#) but the greatest number of reservations belongs to Islamic countries.

Most of the countries have offered no special explanation, but some others such as Iraq have explained that the Islamic Shari’ah has adjusted the private relations of husbands and wives based on justice. The idea of Islamic justice for securing women’s rights is crucially important, stating that the collection of Muslim laws deserves due attention. Personal incorrect interpretations and patriarchal justifications have worked to the detriment of Islamic justice. Polygamy and unjustified divorce are among them. Therefore, inappropriate use of traditional laws on divorce changed radically in approximately all Islamic States in the direction of national interests in the twentieth century.[43](#) These reforms usually followed two important purposes:

- A) Preventing the husband from misusing his power for divorcing the wife
- B) Strengthening women’s rights specially when unilateral divorce by the husband has seriously harmed her.

One of the major cases in Article 16 to which most of the Islamic States have made reservations (paragraph 1), are equal rights and responsibilities during the married life and at divorce. Based on the Islamic law, paying for life expenses (alimony) is the responsibility of the husband and therefore the division of duties has not taken place based on discrimination but on natural conditions of man and woman and on the prevalent tradition which requires different tasks and responsibilities. Paragraph 2,

Article 6 of Islamic Human Rights Declaration also provides that man is responsible to provide for family expenses.[44](#)

Some researchers wonder whether such a task division established in Islam and probably in the Holy Qur'an is fixed and unchangeable or changeable as to the well being of the people and consideration of existing conditions if the concept of well being or the existing conditions changes. In other words, if the society goes towards conditions in which women also participate in earning income and supporting the family, can such a task division be revised or not? Is the revision conforming to the basic idea of Islam?[45](#)

As Martyr Mutahhari says: "The conditions in our age requires a reevaluation of many issues and the former values are not sufficient anymore. Family rights and obligations systems are among them.[46](#) Therefore, relying on the spirit of Islam, which is justice, we can say changes are inevitable. It is natural that this revision should be within the domain of the basic principles governing Islamic thought as to time and place requirements. Islam has religious and social principles and heritage, which can be used in the best manner possible.

The world of Islam requires great efforts and programming to elevate and promote the conditions and rights of women. Justice, logic and well-being of all Islamic societies require that the healthy and proper way for realisation of women's rights which are often surrounded by superstitions and ethnic traditions be paved and social justice between man and woman in different aspects be established.

However, the problem which remains is whether such changes and revisions should be carried out within the framework of social experiences based on their own culture, or commitment to international standards should give rise to such reforms. It is not true to see all the international efforts to promote women's rights and the matter of equality as resulting from evil intentions of the Western governments. However, one thing is evident: international efforts are usually pioneered by Western governments and it is natural that they are within the framework of Western value system. Some of the facilities of the Western societies in the increase of creativity and social work of women might be notable but there are problems beside that which can be justified only in the same value systems.

A solution for the problems of women should be found within the general framework of Islamic system. Thus, the capability of the Islamic society in co-ordinating principles, objectives and spiritual values and the needs of today's life can be shown. Therefore, we can see that reservations by Islamic states, which have different political systems, should not be considered as a factor for discriminatory view of Islam toward women.

Besides this problem should be defined whether the serious belief of the majority of Muslim women in the execution of the Islamic *Shari'ah* based on the same existing standards and lack of the feeling of discrimination in them is to be called discrimination. Should not the application of the state of discrimination be carried out concerning its subjects? Therefore, while some of the great Muslim thinkers

discuss the need to revision based on present needs and with regard to practical realities of the contemporary world, should the compilers of international instruments themselves not pay attention to the requirement of revision in these deeds and create a balance between international standards and social values? Should they not require overthrowing the traditions and customs of the societies for promoting the status of women and refuse to recommend unique strategies for this?

For example, legal discussions are irrelevant in many African societies. There are a number of social and economic problems, which prevent accurate execution of the law. In many African societies, poverty is so harsh that ownership finds no meaning. Therefore, law enforcement differs from one society to another and in special conditions such as economic or social pressures or ethnic conflicts, an instrument different from law is demanded for improvement of women's conditions.

Another example is the example of South Asian countries where legal institutions are generally regarded as emblems of colonial powers, which have substituted native culture and tradition and religion. That is why any effort in taking advantage of international standards should consider the manner of supporting women within the domain of their own culture and traditions.[47](#)

There are superstitious traditions and Islam has suffered from them more than anything else. There are also traditions deep in the history and proper use of them can help the national identity and improvement of women's status. There are traditions embodying the customs of the ancestors and are very dependent on religion. So, believing in a given religion requires following them.

Even the words of the international instruments are sometimes selfcontradictory. For example, the contradiction between obligations included the Women's Convention and the Principle of Religious Freedom which is amongst the substantial freedoms of mankind as Charter and in the Declaration of Elimination of All Forms of Discrimination, inequality based on religion has been specifically supported. Likewise, the free acceptance of a religion which brings restrictions for women who are its followers will be considered discriminations based on sex if the principle of religious freedom is not taken into account.[48](#)

One point should be considered and that is the fact that the international rules of human rights and specially women's rights have not yet been effectively implemented. Special instruments have faced double problems due to special cultural and historical reasons. In addition to general causes for not executing the international rules, the following reasons can also be considered:

- 1) Lack of understanding of the nature of women's subservience due to various reasons
- 2) Lack of attention to discrimination against women as breach of human rights
- 3) Lack of governmental measures in condemning the discrimination against women
- 4) Lack of attention of the traditional advocates of human rights to the breach of women's rights as

breach of human rights

5) Lack of universal recognition of the international means of human rights for women

In general, international rules of human rights and legal instruments evolved substantially in a world of interpretations made by men. In order to improve the conditions, the following measures can be considered:

- 1) Studying the manner of women's rights and its improvement in different cultures based on their own culture and tradition
- 2) Specifying the challenges between international rules and domestic laws
- 3) Establishing executive guarantee systems for the improvement of women's rights
- 4) Establishing support structures for execution of law including political, economic and social structures.

Low level of economic and social development and its consequent outcomes affect the support of the women's rights enforcement. While at international level, there is pressure for implementation of international rules for women's rights, there is no international support to accomplish this task.

Bangladesh, one of the members of the Women's Convention asked for financial aid after drawing its first national report to prepare the second report because in a country like Bangladesh, it is difficult to spend money for such a project, but the Committee said in response that there was no possibility of financial aids.[49](#)

At any rate, different means are required for improvement of the status of women who experience the oldest type of historical exploitation. Therefore, we cannot always wait for international measures and methods. International mechanisms can never substitute national mechanisms.

Conclusion

As discussed earlier, there is a developing process in passing and executing international laws for human rights in whose approval, although pioneered by the West; representatives of the third world countries also participate through international negotiations.

Of course, representatives of governments are not always the people's representatives but after approval, these are the nations that are influenced by the approved instruments. There is generally a challenge between the international rules of human rights and the value system of any society especially in developing countries.

There has always been a question in this writer's mind. Aside from the intention of those who draw up the human rights instruments, what is the real application of such means for women? Has the status of women really improved since the approval of the Convention for Elimination of Discrimination and the

governments joining it? Can this Convention be used as an international force for inducing the governments to accord more attention to the status of women and to the creating of a balance between their standards and the domestic needs?

Of course, the role of women can be effective in this regard. Legal requirements and necessity of unity for solving the existing problems generally reveals itself in the normal course of life of any society. If women define their demands based on their experiences of social inequalities, it will affect the development and enforcement of rules relating to them. The reply to this question depends on the future fate of women especially in the third world countries.

It is natural that those for whom such rules are to be implemented, should understand the standards and regard them not as imposed concepts but as measures rising from their own world and values, otherwise, such measures shall not be accepted and are not legitimate in their view. In addition, if they were imposed, would it not be the violation of human rights itself?

[1.](#) Paragraph 3, Article I, the International Bill of Human Rights.

[2.](#) In the following you will find part of this heritage:

The Convention on the Political Rights of Women, (1952)

The Convention on the Nationality of Married Women, (1957)

The Convention on Desire, Age, and Record of Marriage, (1962)

The Declaration of Elimination of Discrimination Against Women, (1967)

The Convention on the Elimination of all Forms of Discrimination against Women, (1979) The Final Declarations of the Conferences of Mexico City, Copenhagen, Nairobi and Peking Nairobi Strategy

[3.](#) The United Nations and Advancement of Women, 1945–1995, Blue Books Series, Vol. VI, New York, D. P. I 1995, p. 7.

[4.](#) CEDAW/C/1997/4, 12 November, 1996.

[5.](#) Ibid.

[6.](#) The Data on Human Rights for Six International Documents, New York, 1997, p. 17.

[7.](#) Convention on Elimination of All Forms of Discrimination against Women DPI/1993, February, p. 3.

[8.](#) Convention on Elimination of All Forms of Discrimination against Women, *ibid*, p. 5.

[9.](#) Ibid.

[10.](#) Ibid.

[11.](#) Rebecca J. Cook, Reservations to the Convention on the Elimination of all forms of Discrimination against Women, Virginia Journal of International Law, 1990, Vol. 30, p. 643.

[12.](#) Convention on Law of Treaties

[13.](#) A glance at the treaties trusted to the Secretary General testifies to this claim. The Covenants on Political, Civil, Economic, Social and Cultural Rights, The Convention on Children's Rights, The Third Convention on the Rights of Seas; Multilateral Treaties trusted to Secretary of United Nations, 1995, UN, New York.

[14.](#) CEDAW/C/1997/4, 12 November, 1996, p. 1.

[15.](#) Rebecca J. Cook, *op. cit*, p. 645.

[16.](#) Byrnes, The Other Human Rights Body; Work of The Committee on the Elimination of Discrimination against Women, Vol. 14, 1989/p. 6.

[17.](#) CEDAN/C/1997/4, 12 November 1997, p. 4

[18.](#) Ways and Means of Expediting the Work of the Committees, Report by the Secretariat (CEDAW/C. 1995/9) p. 8.

[19.](#) CEDAW/C/1997/4, 12 November, 1996, p. 6.

[20.](#) Bangladesh, Britain, Egypt, Iraq, Malawi and Tunisia gave reservation to this article.

[21.](#) CEDAW/C/1997/4, 12 November 1996.

- [22.](#) Byrnes, The Other Human Rights Body, The Work of the Committee on Elimination of Discrimination against Women, op.cit. p. 8.
- [23.](#) CEDAW/C/ 1997/4, 12 November, 1996, p. 78.
- [24.](#) Ibid.
- [25.](#) Byrnes, CEDAWS'S 10th Session, the Netherlands Quarterly of Human Rights, Vol. 3, 1991, p. 339.
- [26.](#) CEDAW/C/1997/12, 8 February, 1997.
- [27.](#) The idea of Iran's joining to the Convention, has been discussed by different authorities including Bureau of Women's Affairs, Cultural Council of Women, and the Bureau for Women's Affairs in Executive Power and the Commission on Islamic Human Rights. Even before the Peking Conference, it was deemed an urgent act in foreign affairs. There are different views on Iran's joining to the Convention. Some propose it with the general reservation. In addition, some others are against joining the Convention. In their opinion, this shall give an excuse to the adversaries to accuse Iran of violating international conventions in case of not obeying it in Iran. Some consider it with certain reservations for joining it.
- [28.](#) Katarina Tomasevski, Women and Human Rights, London, Zed Book Ltd., 1993, p. 118.
- [29.](#) CEDAW/C/1997/4, p. 1.
- [30.](#) Katarina , Tomasevski , op.cit. p. 117.
- [31.](#) Byrnes, Andrew, The Other Human Rights Body, op. cit, p. 51
- [32.](#) Byrnes, Other Human Rights Body, op. cit. p.51
- [33.](#) Ibid.
- [34.](#) Tomasevski, op. cit. p.119
- [35.](#) Human Rights, Edited by Robert Blackburn and James Busuttil, London, Pinter, 1997, p. 10
- [36.](#) Murtaza Mutahhari, Women's Rights in Islam, Tehran: Sadra, p.25
- [37.](#) Oxford Encyclopedia for Modern Islamic Thought, Oxford. 1996, p. 141.
- [38.](#) Sura al-Hujurat (49:13): "O mankind! We have created you male and female, and appointed you races and tribes, That you may know one another. Surely the noblest among you in the sight of God is the most godfearing of you."
Sura al-Mudaththir (74:38): "Every soul shall be pledged for what it has earned."
Sura an-Nahl, (16:97): "And whosoever does a righteous deed, be it male or female, believing, We shall assuredly give him to live a goodly life."
- [39.](#) Sura an-Nisa, (4:34): "Men are the managers of the affairs of women for that God has preferred in bounty one of them over another."
- [40.](#) Nasrin Musaffa, Political Participation of Women, Tehran: Bureau for International and Political Studies, 1996.
- [41.](#) Ali Davani, The History of Islam from beginning to Hegira, 'Ilmi Publications, 1985, pp.195-196.
- [42.](#) Katarina Tomasevski, op. cit. p. 118
- [43.](#) Hisham Kamali, Divorce and Women's Rights: Some Muslim Interpretation, of s.2.228, Muslim World, July-October 1964, p.85
- [44.](#) Muhammad 'Ali Taskhiri, Islam and Human Rights, Siyasat-i Kharijah Magazine, tenth year, 1996, p.223
- [45.](#) Husayn Mihrpur, Islam and Human Rights, Siyasat-i Khariji Magazine, no. 1, tenth year, 1996, p. 13
- [46.](#) Murtaza Mutahhari, ibid., p. 13
- [47.](#) Human Rights of Women, National and International Perspectives, edited by Rebecca J. Cook, Philadelphia University Press, 1994, p. 514.
- [48.](#) Faridah Shaygan, System of UN and Human Rights, Siyasat-i Khariji Magazine, no.4, seventh year, 1993, p.877
- [49.](#) Katarina Tomasevski, op. cit. p. 119