

370

**WOMEN IN POLITICAL
INSTITUTIONAL SYSTEM**



Edited by
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Women in Political Institutional System

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Dedication

I would wholeheartedly dedicate this
book to all immortal freedom
fighters who have sacrificed their
lives, Virtue & family for the sake of
freedom of the people against the
British, irrespective of caste, creed,
class & sex.



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xviii

312

Contents.....

1. **Conceptual Outlook on Politics, Political System and Society**- M. Riswan / 1
2. **Women Political Participation** - Dr. Bharathi Shyamraj/20
3. **Marginalized Community in Panchayat Raj System: A Sociological Study on Scheduled Caste Women Representation in Village Panchayat in Hosakote Taluk, Bangalore Rural District.**
- Dr. Dodda Hanumaiah. B H / 33
4. **The Political Role of Women in An Indian Medieval Period: A Historical Perspective**
- Dr. C.L.Shivakumar / 45
5. **Political Empowerment of Women Though an Indian Constitution** - Dr. Radhamma D.K / 61
6. **An Influence of Gandhian Thoughts and the Mobilization of Women in Kerala Politics.**
- Dr. Vinayan. T / 77
7. **Women's Rights as Human Rights: An Overview**
- Dr Kavitha GN / 86
8. **Famous Indian Women Leaders and National Movement: An Overview.** - Krishnegowda. H.K / 99
9. **Panchayath Raj Institutions and Women Empowerment** - Akshatha Paranjyothi Kumar / 111
10. **The Protection of Women's Rights in India**
- Nagaraja .V / 126



3B

11. **Women in Armed Forces: A Unique.**
- Dr. Bharathi Shyamraj / 139
12. **Women and Political Power**
- Dr. Kavitha G N / 148
13. **A Study on the Grama Panchayath Women Participation and Women Empowerment: A Special Reference to Hassan District.** - Dr. Roopa. K.V / 155
14. **Economic, Social and Cultural Rights of Women: An International Human Rights Perspective.**
- Dr Shaheema. A.S / 166
15. **The Gender gap and Women's Political Representation in India** - Meenakshi. M / 183
16. **Women Reservation in Politics: A Historical Perspective** - Madhushree. K / 194
17. **Political Pathways of Muslim Women in Local Government Authorities in Srilanka.**
- M.Y. Minnathul Suheera & T.M.F. Wazeema / 221
18. **Conceptual Analysis of Political Theory from the Feminist Perspective** - Dr Kavitha G N / 248
19. **Political Participation of Women in India: A Scenario** - Dr. Roopa K.V / 260
20. **Dr B.R. Ambedkar's Thoughts on Women in Politics.** - Dr. S.S. Ramajayam / 271
21. **Kannadiga Women's Role and Leadership in An Indian Independence Movements**
- Dr Kavitha G N / 286



ECONOMIC, SOCIAL AND CULTURAL RIGHTS OF WOMEN: AN INTERNATIONAL HUMAN RIGHTS PERSPECTIVE

- Dr. Shaheema A. S

Introduction

Women are considered as one of the vulnerable sections of the society. Their lives are impacted by innumerable problems such as; lack of basic amenities, inequality, prejudiced cultural categories, blind beliefs and their harmful practices, religious fanatics and many other problems which restricts the growth agendas and confines deliberation on the rights of women. The economic, social and cultural rights are the human rights; they include the right to work, the right to sufficient standard of living including food, clothing, and shelter, the right to social security, the right to a healthy environment, the right to physical

374

and mental health and the right to education. The economic, social and cultural rights of women are given attention in the international human rights conventions, treaties, protocols and conferences such as International Covenant on Economic, Social and Cultural Rights (ICESCR), the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Vienna World Conference on Human Rights Declaration and Plan of Action etc. The ICESCR and the CEDAW are the two fundamental human rights conventions which provide a forum for demanding realization of women's human rights at the international level. In this chapter, the author has discussed the importance of specific international human rights laws that deal particularly with the protection of economic, social and cultural rights of women at the international level.

Historically speaking women have struggled for equal treatment in every part of the world. The 20th century has marked as the progress in providing women the economic, social and cultural rights through international conventions. To get education, to take paid employment, to enter and practice any respectable professions have been recognized as rights of women by certain countries through their laws and customary practices. Women have the rights to enjoy equal human rights and fundamental freedoms like other individuals. International human rights conventions entail State parties to take positive steps to ensure that human rights of women are protected and respected by law and mandates to make efforts and arrangements to eliminate any kind of discrimination, inequalities and practices that destruct human

rights of women. The United Nation has recognized the suffering of women and given special status and protection under various international conventions and treaties. International conventions on women prohibit discrimination on the basis of gender and also necessitate States to ensure the protection and realization of women's rights in all sectors such as right to property, freedom from violence, equal status, education and participation in government.

Economic, Social and Cultural rights are inseparable human rights which every woman must get. After World War II these rights have been recognized by the International Bill of Human Rights. The International Covenant on Economic, Social and Cultural Rights, 1966 (ICESCR) is the common instrument available for the protection of economic, social and cultural rights irrespective of any gender discrimination. As the present article deals with the protection of economic, social and cultural rights of women, the author has discussed the respective international human rights conventions, treaties, protocols and conferences which exclusively protects the economic, social and cultural rights of women which are as follows:

1. International Covenant on Economic, Social and Cultural Rights (ICESCR)
2. The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR)
3. Convention on the Elimination of All forms of Discrimination Against Women (CEDAW)
4. Vienna World Conference on Human Rights Declaration and Plan of Action

375

Women and Gender Discrimination

When we think about the protection of human rights, we think all rights are equal irrespective of any differences between gender, race, religion, language, etc. When we think about non-discrimination we think of equality. Hence, equality makes its own places when we demand for human rights it may be any type of rights such as civil, political, economic, social and cultural. But a question may arise here: when we demand equal human rights for all human beings why there is a need for separate economic, social and cultural rights for women? The ICESCR provides equal rights irrespective of any discrimination. But women still face discrimination in one or the other way. Hence, the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) has been enforced to remove any type of discrimination faced by women beside demanding equality. The discriminations faced by women includes access to medical care, work, housing, education, etc.

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

The UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is adopted on 18 December, 1979 and entered into force on 3 September, 1981. It is a complete convention on the rights of women and it denounces any form of discrimination against women. The convention under Articles 1, 2 and 3 reiterates the importance of guaranteeing equal civil, political, economic, social, and cultural rights to women irrespective of their marital status and obliges States to enact national legislation prohibiting



discrimination. The Convention defines the term 'Discrimination' in its article 1 as "any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on 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."

Articles 4 and 5 of the convention authorizes States to take special measures to quicken the achievement of equality in practice between men and women and to take actions to alter social and cultural patterns that disseminate discrimination. Article 6 makes states parties to take all appropriate measures, including legislation to suppress sexual trafficking of women, and other sexual exploitation of women. Article 15 provides that States parties agree that contracts and other private instruments that restrict the legal capacity of women "shall be deemed null and void". Article 10 of Convention deals with the need for equal access to education. Further Article 16 requires States parties to take appropriate measures to eliminate discrimination in matters relating to marriage and family and emphasizes the equal responsibilities of men and women in the context of family life. Article 11 of the Convention also emphasizes the need for childcare facilities and other social services to help women satisfy their family obligations along with work responsibilities and participation in public life. Under article 12 the convention demands for non-discriminatory health services for women, including family planning services. Article 14 gives the special attention towards the problems faced by rural women. CEDAW remains the most widely applicable human rights convention especially dedicated to women's rights.

International Covenant on Economic, Social and Cultural Rights (ICESCR)

The International Covenant on Economic, Social and Cultural Rights (ICESCR) was adopted by the UN General Assembly by Resolution 2200 A (XXI) on 16 December, 1966 and same was entered into force on 3 January, 1976. Forming part of International Bill of Human Rights ICESCR provides for the legal agenda to protect and preserve the most basic economic, social and cultural rights, including right to non-discrimination and the right to an effective remedy (Article 2), equal right of men and women to the enjoyment of economic, social and cultural rights (Article 3), rights relating to work include technical and vocational guidance and training programmes, policies and techniques (Article 6), right to work in just and favourable conditions of work (Article 7), right to social security including social insurance (Article 9), protection of the family, mothers, children and young persons (Article 10), right to an adequate standard of living (Article 11), right to the highest attainable standards of physical and mental health (article 12), right to education including primary and free education (Article 13) and right to enjoyment of the benefits of cultural freedom and scientific progress (Article 15).

It is an acceptable fact that every human being deserves certain rights such as right to live in independence, self-respect, financial security and many more without discrimination. Moreover, the International Bill of Rights documented that all human beings without any discrimination must possess all types of human rights and it directs all countries governments to make sure their citizens possess economic,

social and cultural rights along with civil and political. Thus, the economic, social and cultural rights are claimed under legal framework i.e., international human rights laws and provides an individual platform to claim legitimately against any state and non-state entities for protection and guaranty of non-violation of these rights.

The reason behind the considering the economic, social and cultural rights as human rights was to fulfill the necessity to have basic rights to things like food and shelter. After the Covenant on Economic, Social and Cultural Rights came into force in 1976, these rights were rightly developed and a great progress followed the establishment of the United Nations Committee on Economic, Social, and Cultural Rights.

Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR)

The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR) was adopted by the UN General Assembly by Resolution A/RES/63/117) on 10 December, 2008 and same was entered into force on 5 May, 2013. It forms mechanisms for bringing violations of economic, social and cultural rights before the UN Committee; they are individual complaints mechanism, an inter-state complaint mechanism and an inquiry procedure.

Committee on Economic, Social and Cultural Rights (CESCR)

The Committee on Economic, Social and Cultural Rights (CESCR) is the self-governing expert body appointed to oversee state party's implementation of the ICESCR. It consists of 18 independent

experts who are nationals of state parties to ICESCR, elected by secret ballot and serving four-year terms. CESCR meets twice annually.

Women Rights and Government Responsibility

For the fulfilment of economic, social and cultural rights for women there is a need of governments and other powerful entities to guarantee that women must have access to certain basic needs and they have a voice in case these rights are violated. It is a known fact that poverty and inequality are neither inevitable nor natural, but they can be prevented with careful decisions and policies. The human rights laws are enforced to hold civic representatives responsible for developmental policies and priorities.

It is the responsibility of respective Governments to ensure basic human rights irrespective of their resource limitations to all without discrimination. The basic requirements that fulfil economic, social and cultural rights are the availability of foods for respective population, basic health care facility, housing and elementary education. A question may arise here; How States fulfil basic requirements for their people? It is the responsibility of every government towards citizens to fulfil basic requirements. The international human rights laws provide these responsibilities with certain obligations which are as follows:

1. The obligation towards respect of its citizens which requires governments to refrain from interfering either directly or indirectly with the enjoyment of economic, social and cultural rights.



2. The obligation towards the protection of its citizen which requires governments to avoid third parties, such as corporations, from interfering in any means with the enjoyment of economic, social and cultural rights.

3. The obligation towards its citizens to fulfill which requires governments to implement the necessary measures to attain the full realization of economic, social and cultural rights.

When States become signatories of human rights treaties it is their duty to enforce the same. But how about the non-signatory States; Are they free to violate human rights? Human rights standards are applicable to even non-signatory State. They have the prime responsibility to protect human rights, including violations through non-state entities. People may enforce their basic rights by judicial action and they are bound to respect human rights standards through the worldwide protection of human dignity.

Violence Against Women

Women are subjected to violence in various walks of their life. Most women are abused in their childhood such as child molestation, rape, child marriage etc. when they grow and enter into the marital life they face different level of violence like dowry harassment, child bearing, family burden, etc. Marital homes will become a place of violence and cruelty for many women and they become the victims of domestic violence. Women are also victims of violence at the workplace they are subjected to various types of harassment. The term discrimination makes its own place at the public and private workplace against women. At the private sector equal treatment of

378
women remains exceptionally controversial. Woman faces difficulty in creating and defining her role and identity in the society and most of the times she is restricted by social and cultural norms. Since women are trapped under various forms of violations their capacity to enjoy economic, social and cultural rights are often controlled by economic incapacity, social attitudes and cultural norms that confirm them secondary and subordinate status in society and finally categorized them as vulnerable.

All types of violence against women have been considered as a violation of the human rights which include the right to life and self-determination; the right to equal protection under the law; the right not to be subjected to torture or to other cruel, inhuman or degrading treatment or punishment; the right to liberty and security; and the right to the highest standard of physical and mental health. Women are also subjected to the issues like the freedom of expression and association where they are denied access to information regarding contraceptives, they are forced to be under veil, no access to education, etc.

At the international level the CEDAW has been used as an effective tool for getting women's issues into the rights field. Various conferences held at the international level have open opportunities to think about protection of women rights for example an extraordinary mobilization of women at the Vienna World Conference on Human Rights in 1991 steered to the insertion of women's human rights within the Vienna Declaration. Like this various other conferences also address the women issues namely the 1994 International Conference

on Population and Development, the 1995 Fourth World Conference on Women and the 1995 World Summit on Social Development.

World Conference on Human Rights Declaration and Plan of Action

The World Conference on Human Rights held in Vienna, Austria from 14 to 25 June, 1993. The main outcome of the conference was the 'Vienna Declaration and Plan of Action', a collective plan for the strengthening of human rights work around the world. The Conference took novel steps to promote and protect the rights of women and urges for equal status for women and same should be taken as priority by all state Governments and for the United Nations. It created a new mechanism i.e., a Special Rapporteur on Violence Against Women and the same was subsequently appointed in 1994. The Conference also underlines the importance of the integration and full participation of women as both participants and beneficiaries in the developmental process.

The conference directs for the steps that should be taken to increase cooperation and promote further integration of objectives between the Commission on the Status of Women, the Commission on Human Rights, the United Nations Development Fund for Women, the United Nations Development Programme, the Committee for the Elimination of Discrimination Against Women, and other UN agencies. In this context, cooperation and coordination should be strengthened between the Centre for Human Rights and the Division for the Advancement of Women.

Further, the Conference stresses the importance of working towards the elimination of violence against women in public and private life, such as the sexual harassment, exploitation and trafficking in women, gender bias in the administration of justice and 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. The Conference calls upon the General Assembly to adopt the draft declaration on violence against women and directs States to combat violence against women in accordance with its provisions. Violations of the human rights of women in situations of armed conflict should be eliminated such violations includes murder, systematic rape, sexual slavery, and forced pregnancy are violations of the fundamental principles of international human rights and humanitarian law. All violations of this kind should be eliminated.

Economic, Social and Cultural Rights and the Safety of Women Human Rights Defenders

The lives of those women who takes the serious steps in protecting economic, social and cultural rights are at risk. Some women have faced threat and some have lost their lives and some other got back their lives after serious attack on them. Let's have a glance on serious life-threatening incidents happened to women at the international level:

- 1. Yolanda Oqueli, is a noticeable activist and community leader in the Guatemala and belong to an organization called FRENAM (Frente Norte del Área Metropolitana). On 13th June, 2012 she was attacked and seriously wounded for opposing the gold mine that was

built in her vicinity. Her family members also faced serious threats and attacks. Guatemala gave protection to her and her family on the basis of a resolution of the Inter-American Commission on Human Rights.

2. Another such incident happened with Malala Yousafzai, a 14-year-old human right defender who fought for girls right to education in Pakistan. On 9th October, 2012 she was attacked and shot in her head by Tehreek-e-Taliban in Pakistan while going to school but luckily, she survived and became the youngest person to receive the Nobel Peace Prize.

3. Next human rights defenders are YormBopha and Tim Sakmony they are Cambodian land and housing rights defenders in the capital of Phnom Penh. They were arrested on 4th and 5th September, 2012 on false charges. Both women have been protesting against the forced evictions of their communities. In late December, 2012 they were convicted and sentenced on baseless charges in separate trials by Phnom Penh Municipal Court, Cambodia. It has been believed that these women human rights defenders were the targets of the Cambodian authorities and they falsely made criminal charges against them.

Like this there are many women human rights defenders who are facing serious threats and violence for fighting for their human rights that are essential for life, freedom and dignity. Equivalently NGOs contributing in organizing different movements and protests for providing the economic, social and cultural rights for women such as right to work, right to health, right to education, right to basic necessities, right to social security, right to a healthy environment and culture, etc.

Conclusion

Human rights commonly belong to all human beings on the basis of equality is hard to accept and much criticized. History is the proof that various customary practices, traditions and religious blind beliefs demote women to a secondary status and affects elderly women their legal majority. sometime women strive hard to recognize themselves as members of society through their cultures that are indivisibly linked to the social and economic facets of their lives. Compared to economic and social rights, the issue relating to cultural rights remains one of the most contentious and disruptive. This situation leads to difficulty in considering the cultural rights for women and the CEDAW replicates a clear awareness on the issue under Article 5(a) it calls on states parties to the Convention "to change the social and cultural forms of conduct of men and women, with a view to realizing the elimination of preconceptions and customary and all other practices which are based on the idea of the subordination or the dominance of either of the sexes or on categorized roles for men and women". Hence, for the enjoyment economic, social and cultural freedoms women needs to be treated on an equal basis with that of men in all the family and public matters. Various international conventions, protocols, treaties etc., on the protection of women rights which are ratified by the countries at large remains as just a situation of reservations by governments and these ratifications just focus on the spirit of the Conventions but not actually bringing into reality.

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382

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1827 Women in Political Institutional System

