

WOMEN AND HUMAN RIGHTS IN THE ASIA/PACIFIC REGION: A PERSPECTIVE FROM SOUTH ASIA



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Introduction

The process of protecting the rights of minority groups started some time way back just after the First World War, but no protection of individuals generally on a natural law or other basis was attempted. By the 19th century, most European writers recognised an exception in the case of humanitarian intervention. Events in Europe in the 1930s and in the Second World War focused attention upon this wider question, and the guarantee of human rights became one of the purposes for which the Allied Powers fought. It was therefore no surprise when the realisation and protection of human rights became one of the purposes of the United Nations and when the Charter imposed obligations upon members to this end. The Charter was followed by the Universal Declaration on Human Rights 1948¹ and a still growing number of multilateral treaties concluded through the United Nations on this subject. At a regional level, the European Convention for the Protection of Human Rights and Fundamental Freedoms 1950,² the European Social Charter³ and the American Convention on Human Rights⁴ have been adopted and all are in force. There are also over hundred international labour conventions in force, some dating from before 1945, and the four Geneva Conventions of 1949 dealing with protection in armed conflicts.⁵ In addition, the Helsinki Final Act of the Conference on Security and Cooperation in Europe 1975 has important sections on human rights.⁶

¹ GA Res 217A(III), adopted on 10 December 1948.

² 213 UNTS 221, adopted on 4 November 1950, entered into force 3 September 1953, new text and protocols 1-11, 15 HRLJ 102.

³ 529 UNTS 89, ETS 25, adopted on 18 October 1961, entered into force 26 February 1965.

⁴ 'Pact of San Jose, Costa Rica', 1144 UNTS 123, adopted on 22 November 1969, entered into force 18 July 1978.

⁵ They are: Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 75 UNTS 31, Geneva Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of the Armed Forces at Sea, 75 UNTS 85, Geneva Convention Relative to the Treatment of Prisoners of War, 75 UNTS 135, and Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 75 UNTS 287. All of these conventions were adopted on 12 August 1949 and entered into force on 21 October 1950.

⁶ Final Act of the Conference on Security and Co-operation in Europe, reprinted in (1975) 14 ILM 1292.

Human rights guarantees and the enjoyment by women of human rights

The International Bill of Human Rights lays down a comprehensive set of rights to which all persons, including women, are entitled. Though equality is the cornerstone of every democratic society which aspires to social justice and human rights, the women are subject to inequalities in law and practice. Discrimination against women is widespread. Such discrimination is protected by the survival of stereotypes and of traditional culture and religious practices and beliefs detrimental to women. There exist alarming gaps between men and women on the economic and social side. Women are the majority of the world's poor and the number of women living in rural poverty has increased by 50 per cent since 1975. Women are the majority of the world's illiterate and the number rose from 543 million to 597 million between 1970 and 1985. Women in Asia and Africa work 13 hours a week more than men and are mostly unpaid. Worldwide, women earn 30 to 40 percent less than men for doing equal work. Women hold between 10 and 20 percent of managerial and administrative jobs worldwide and less than 20 percent of jobs in manufacturing. Women make up less than 3 percent of the world's head of State. Women's unpaid housework and family labour, if counted as productive output in national account, would increase measures of global output by 25 to 30 percent.⁷

The International Bill of Human Rights lays down a comprehensive set of rights to which all persons, including women are entitled. Despite equal rights given by the charters, traditionally women have been subdued and given inferior status in almost all cultures and almost all part of the world. In some societies, she has been described as main cause of spreading evils. Though woman is respected as mother in some of the cultures but her sexuality has posed a great threat to all religious cultures. A woman's sexuality is threatening to her parents and other family members, including her brothers, because men in the family often find their honour bound up with her sexual behaviour. The entire family are relieved when she is married, irrespective of the suitability of the match, as then she becomes the responsibility of the husband. She is considered to be a follower of her husband rather than to be a partner. In the past almost all cultures had very strange definitions to describe women, for example one Russian proverb stated that ten women have one soul. In some cultures she is compared with horse, they would say that horse needs a spur and woman needs a stroke to be under control. In Spain they recommend that one [ie men] escape from a bad woman but not trust a good one.

⁷ United Nations, *The World's Women 1970-1990: Trends and Statics* (New York, United Nations, 1991).

Living in such an hostile environment, naturally women had to do something, so they turned towards feminism. Today word “feminism” covers a much bigger spectrum than when it was first used in the 17th century. In South Asia (Bangladesh, India, Nepal, Pakistan and Sri Lanka) feminism is defined as “an awareness of women’s oppression and exploitation in society, at work and within the family, and conscious action by women and men to change this situation” in a recent South Asian Workshop.

Feminist struggle is two-fold; the earlier struggle was for the democratic rights of women. It included the right to education and employment, the right to own property, the right to vote, the right to enter parliament, the right to birth control, and the right to divorce. These struggles were outside the home and the family, and were struggles to bring about legal and political reforms. After achieving some success in legal reform, the efforts turned towards ending discrimination, towards the emancipation of women. More recent struggles have been against women’s subordination to men within the home, against their exploitation in the family, against their continuing low status at work in society and in the culture and backward traditions in society, against their burden of production and reproduction. In the essence today’s South Asian women is struggling for the achievement of women’s equality, dignity, and freedom of choice to control the lives and bodies within and outside the home.

An overview of the Convention on the Elimination of All Forms of Discrimination against Women

Equality of rights for women is a basic principle of the United Nations. The Preamble to the Charter of the United Nations sets as a basic goal “to reaffirm faith in fundamental human rights, in the dignity and worth of human person, in the equal right of men and women.”⁸

Discrimination against women was so extensive that additional means for protecting the human rights of women were seen necessary. On 18 December 1979 the Convention on the Elimination of All Forms of Discrimination against Women was adopted by the United Nations General Assembly. It entered into force on 3 September 1981 after the twentieth country had ratified it. Now, over 150 countries are parties to the Convention, thereby agreeing to be bound by its provisions.

Before going into the issues relating to women’s human rights in the Asian/Pacific Region, let us have a look at the provisions of the Convention on the Elimination of All Forms of Discrimination against Women. The Convention is in four parts and comprises thirty articles, some of which are reproduced below:

⁸ Preamble, para 2.

Article 1: Defining discrimination

Article 1 provides a comprehensive definition of discrimination which is then applicable to all provisions of the Convention. It also gives a detailed explanation of the specific meaning of discrimination against women.

Article 2: Obligations of States parties

This article establishes, in a general way, the obligations of a State party under the Convention and the policy to be followed in eliminating discrimination against women.

Article 3: Appropriate measures

Article 3 defines the appropriate measures in all fields which should be taken to implement the policies set out in article 2.

Article 4: Temporary special measures to combat discrimination

States are allowed to use special remedies to accelerate women's actual equality in society and workplace to ensure that *de jure* equality also brings about *de facto* equality.

Article 5: Modifying social and cultural Patterns

This article recognizes that States should strive to remove the social, cultural, and traditional patterns which perpetuate gender-role stereotypes and to create an overall framework in society that promotes the full realization of women's full right,

Article 6: Suppressing exploitation of women

This article urges States to take all appropriate measures to combat traffic in women and exploitative prostitution.

Article 7: Equality in political and public life at the national level

The article urges States to recognise the women's right to vote anonymously and they are to be provided with the opportunity to be elected to public offices and hold positions in non-governmental organisations.

Article 8: Equality in political and public life at the international level

By this article it is made essential that women are adequately represented in international fore as members of government delegations and as employees of international organisations.

Article 9: Equality in national laws

The laws of nationality/citizenship must be changed to provide same rights as men to acquire, change, or retain their nationality and also to extend to women the same rights as men regarding the nationality of their children.

Article 10: Equality in education

There should be equal opportunities for women to get education in all walks of life.

Article 11: Equality in employment and work

Article 11 builds upon and consolidates many of the rights claimed for women by the International Labour Organisation.

Article 12: Equality in access to health facilities

State parties undertake to ensure the equality of women and men in access to health care services. This requires the removal of any legal and social barriers which may operate to prevent or discourage women from making full use of available health care services.

Article 13: Finance and social security

Women's financial independence is guaranteed in this article without which they will not have equality with men.

Article 14: Rural women

Article 14 requires States parties to eliminate discrimination against women in rural areas, to implement their right to adequate living conditions, and to take special measures to ensure them, on a basis of equality with men, the same participation in and benefits of rural development.

Article 15: Equality in legal and civil matters

Women should be afforded equality with men before the law, especially in areas of civil law where they are mostly subject to discrimination.

Article 16: Equality in family law

Article 16 addresses the problem which women face in family law, concerning arranged marriages, child marriages etc.

Women and human rights in South Asia

South Asian countries share a very rich ethnic and religious mix. Almost all religious beliefs exist in South Asia, there are Hindus, believers in Jainism, Buddhism, Judaism, Christianity and Islam.

A major problem in South Asia is the religious influence on the society, especially on the lives of rural women. Set out in the following paragraphs are a selection from different religions of views that have been expressed about women.

Hinduism describes the women by saying:

“falsehood, vain, boldness, graphicness, stupidity, impatience, over greediness, impurity, and hardens are the natural qualities of women.”⁹

“The slave, the son, and the wife, (these three) are always dependent. they have no wealth, for whatever they posses belong to their master.”¹⁰

Early Buddhist influence on the position of women was historically progressive. The Buddhists and their contemporaries, the Jains were the first Indian mendicant orders to admit women, and this greatly expended women's social options. Women in 500 BC India had no property rights, no control over their household affairs or choice of husband, and from 500 AD until the 1900s widows were sacrificed on their husband's funeral pyres. The Brahmanic caste system was strongly patriarchal.¹¹

Early Judaism and Christianity contain some what contradictory image of women, though in the absence of any available data on uniform image of women, one can safely conclude that women did not enjoy equality with man and was in general relegated to an inferior position.

Women in various Muslim countries are being treated differently. In some countries, such as Turkey, Egypt, Tunis, Libya, Algeria and Morocco, they enjoy equal rights and have the freedom to go out of their homes and adopt any profession they like. However, in most of the Muslim countries the practice is different, women in these countries are mostly confined to their homes and are not allowed to go out except in exceptional cases and then they have to cover themselves in a veil. Restrictions on women are more severe in rural villages.

The Holy Quran is the major source of Islamic Law. It recognises the position of women to be the same as that of man. In Surah Al-Imran, it has been made clear that good deeds bring the same reward to both the male and the female. In the words of the Holy Quran:

“I will not suffer the work of worker among you to be lost, whether male or female, the one of you being from the other.”¹²

The Holy Quran, on more than one occasion, makes it clear that both men and women equally posses all the good qualities of life, following verse removes any kind of misunderstanding or misgiving.

⁹ devil Bhagvata. 1.5.83, Vijayananda; p 17 (Kwmari, p 5).

¹⁰ Mahabharata, Sabha Prava 2.71.2; Dute, II, 94.

¹¹ “Early Buddhist Feminism” in *Women and Buddhism* (1986), at 59.

¹² Al-Quran, Surrah Al-Imran-194.

“Surely the men who submit and the women who submit and the believing men and the believing women and the obeying men and the obeying women and the truthful men and the truthful women and the patient men and the patient women, and the humble men and the humble women, and the charitable men and the charitable women and the fasting men and the fasting women and the men who guard their chastity and the women who guard and the men who remember. Allah has prepared for them forgiveness and a mighty reward.”¹³

And “women have rights similar to their obligations in a just manner”.¹⁴

Islam granted equal rights to women which were enjoyed in the early period of Islamic history. But unfortunately these rights has been denied to the Muslim women of later ages and there is a great need for legislation to restore these rights to them. All the rights given to a woman by Islam should be restored in the field of marriage, child marriages should be brought into line with Islamic law, contradictions between laws and customs should be brought into line with justice, the meaning of dowry should be reinterpreted, and the dowry and bridal gift act should be Islamicised, the right of women to divorce should be fully implemented, and the Islamic law on polygamy should be reinterpreted.

Conclusion

Women are being discriminated against all over the world irrespective of region. In the Asia and Pacific the problems are similar to those in any other part of the world. The only difference is that these regions are more backward because of lack of education; the situation will change with the increase of education. In order to achieve these there is a real need to ensure that the provisions of the Women’s Convention are implemented.

The following are some of the issues which need attention:

- women’s rights as human rights
- the right to inherit
- reviewing laws on illegal abortion
- the role of the family
- legislation against rape and prosecution of rape as a war crime.

¹³ Al-Quran, Surah Al-Ahzab-35.

¹⁴ Al-Quran, Surah Al-baqrah-228.