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## INTERNATIONAL JOURNAL OF ADVANCED RESEARCH (IJAR)

Article DOI: 10.21474/IJAR01/16772

DOI URL: <http://dx.doi.org/10.21474/IJAR01/16772>



### RESEARCH ARTICLE

#### NATIONAL AND INTERNATIONAL PERSPECTIVE ON RIGHTS OF MUSLIM WOMEN: A LEGAL PROSPECTIVE

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#### Manuscript Info

##### Manuscript History

Received: 28 February 2023

Final Accepted: 31 March 2023

Published: April 2023

##### Key words:-

National, International, Women,  
Protection and Government

#### Abstract

‘For promoting, preserving, protecting and equality in between men and women, the various rights of women in Nationally and Internationally has been enumerating the number of conventions and conferences in the World by the different Government of the different Countries.’

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#### Introduction:-

Although women is the principal part of human resource in the world but from the ancient period to till days the rights of women rapidly and continuously has been discriminating socially, economically, educationally, politically, religious and culturally also. For preserving, promoting and protecting the various a right of women nationally and internationally has been enumerating the number of convention and conference in the world by the different government of the different countries. At present immensely has taking step by the various national government and United Nation Organization through their various sub agency into the following head :

#### The National Commission for Women Act, 1990 (NCWA) :

The National Commission for Women Act, 1990<sup>1</sup> came in to force 30<sup>th</sup> August, 1990. The Act, including the various safeguard to the women in the National level in to the following stated :

Under Section 10<sup>2</sup> of the National Commission for Women Act, 1990 provided that the following functions : (1)

1. look into and check all matters relating to the safeguards provided for women under the constitution and other law;
2. instant to the Central Government, annually and at such other times as the commission may deem fit, reports upon the working of those safeguards;
3. constitute in such reports recommendations for the effective implementation of those safeguards for improving the conditions of women by the union or any state;
4. report, from time to time, the existing provisions of the constitution and other Laws affecting Women and recommend amendment there to so as to suggest remedial legislative measures to meet any lacunae inadequacies or shortcomings in such legislations;
5. cover the cases of violation of the provisions of the constitution and of other laws relating to women with the appropriate authorities;

<sup>1</sup> The National Commission for Women Act, 1990

<sup>2</sup> Ibid- P-3

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6. investigate the complaints and take suo-moto notice of matters relating to-
    - a. destitution of women's rights;
    - b. non-applicability of laws enacted to provide protection to women and also to achieve the objective of equality and development;
    - c. disagreement of policy decisions, guidelines or instructions aimed at mitigating hardship and ensuring welfare and providing relief to women, and take up the issues arising out of such matters with appropriate authorities;
  7. come for special studies or investigations into specific problems or situations arising out of discrimination and atrocities against women and identify the constraints so as to recommend strategies for their removal;
  8. set about promotional and educational research so as to suggest ways of ensuring due representation of women in all spheres and identify factors responsible for impeding their advancement such as, lack of access to housing and basic services, inadequate support service and technologies for reducing and occupational health hazards and for increasing their productivity;
  9. take part and advice on the planning process of socio-economic development of women;
  10. estimate for the progress of the development of women under the union and any state;
  11. examine or cause to be inspected a jail, remand home, women's institution or other place of custody where women are kept as prisoners or otherwise, and take up with the concerned authorities for remedial action, if found necessary;
  12. encouragement litigation involving issues affecting a large body of women;
  13. produce periodical reports to the Government on any matter pertaining to women and in particular various difficulties under which women toil;
  14. on the other hand which may be referred to it by the Central Government.
- (2) The National Government shall cause all the reports to in clause (b) of sub-section (I) to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non acceptance, if any of such recommendations.
  - (3) Any place such report or any part there of relates to any matter with which any state Government is concerned, the commission shall forward a copy of such report or part to such State Government who shall cause if to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.
  - (4) The committee shall, which investigating any matter referred to in clause (a) or sub-clause (i) of Clause (f) of sub-section (I), have all the powers of a civil court trying a suit and, in particulars, in respect of the following matters, namely :-
    - a) to call upon for specified action and enforcing the attendance of any person from any part of India and examining him on oath;
    - b) necessary the discovery and production of any document;
    - c) accept evidence on affidavits;
    - d) confiscate any public record or copy thereof from any court or office;
    - e) provide commissions for the examination of witness and documents; and
    - f) each other matter which may be prescribed.

### **The Indian Human Rights Act, 1993 :**

The Indian Parliament has enacted the protection of Human Rights Act, 1993<sup>3</sup> to provide for the constitution of a National Human Rights Commission, State Human Rights Commission in State and Human Rights courts for better protection of human rights and for matters connected there with or incidental thereto.

According to Section 2(1) (d)<sup>4</sup> of the Protection of Human Rights Act, 1993 Human Rights means the rights relating to life, liberty equality and dignity of the individual guaranteed by the constitution embodiment in the International covenant and enforcement by the court of India.

Under Section 12<sup>5</sup> of the Protection of Human Rights Act, 1993 provided that function of the National Human Rights Commission –

<sup>3</sup> Protection of Human Rights Act, 1993 (10 of 1994) the Act came in to force 8<sup>th</sup> January, 1994

<sup>4</sup> Ibid- Page- 3

- a) Inspection, suo-motu or a petition presented to it by a victim or any person on his behalf into complaint of -
  - I. infringe of human rights or abetment thereof; or
  - II. irresponsibility in the prevention of such violation, by a public servant;
- b) conciliate in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court;
- c) call on, in spite of anything contained in any other law for the time being in force, any jail or other institution under the control of the, State Government, where persons are detained or lodges for purposes of treatment, reformation or protection, for the study of the living conditions of the inmates thereof and make recommendations there on to the Government.
- d) report the safeguards provided by or under the constitution or any law for the time being in force for the protection human rights and recommend measures for their effective implementation :
- e) report the factors, including acts of terrorism, that inhabit the enjoyment of human rights and recommend appropriate remedial measures;
- f) analysis treaties and other international instruments on human rights and make recommendation for their effective implementation;
- g) set about and promote research in the field of human rights ;
- h) develop human rights Literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means;
- i) motivate the efforts of non-governmental organisation and institution working in the field of human rights;
- j) on the other functions as it may consider necessary for the promotion of human rights.

Under Section 17<sup>6</sup> provides that inquiry in to complaints the commission while inquiring into the complaints of violation of human rights may –

- 1) come for the information or report from the central Government or any State Government or any other authority or organisation subordinate thereto within such time as may be specified by it :
  - a) given the information or report is not received within the time stipulated by the commission, it may proceed to inquiry in the complaint on its own;
  - b) as long as, on receipt of information or report the commission is satisfied either that no further inquiry is required or that the required action has been initiated or taken by the concerned Government or authority, it may not proceed with the complaint and inform the complainant accordingly;
- 2) in the absence of prejudice to anything contained in clause(i), if it considers necessary, having regard to the nature of the complaint, initiate an inquiry.

Under Section 18<sup>7</sup> of the Protection of Human Rights Act, 1993 stated that, ‘Steps during and after inquiry – The Commission may take any of the following steps during or upon the completion of an inquiry held under this Act, namely :-

- a) Thus the inquiry discloses the commission of violation of human rights or negligence in the prevention of violation of human rights or abetment thereof by a public servant, it may recommend to the concerned Government or authority –
  1. to produce payment of compensation or damages to the complainant or to the victim or the members of his family as the commission may consider necessary;
  2. to start proceeding for prosecution or such other suitable action as the commission may deem fit against the concerned person or persons;
  3. Confiscate such further action as it may think fit.
- b) To talk with the supreme court or the High Court concerned for such directions, orders or writes as that court may deem necessary :
- c) Put forward to the concerned Government or authority at any stage of the inquiry for the grant of such immediate interim relief to the Victim or the members of his family as the commission may consider necessary;
- d) Question to the provisions of clause (e), provide a copy of the inquiry report to the petitioner or his representative;
- e) The Committee shall send a copy of its inquiry report together with its recommendations to the concerned Government or authority and the Government or authority shall, within a period of one month, or such further

<sup>5</sup> Ibid- Page- 8

<sup>6</sup> Ibid- Page- 11

<sup>7</sup> Ibid- Page- 12

time as the commission may allow, forward its comments on the report including the action taken or proposed to be taken there on, to the commission;

- f) The Committee shall publish its inquiry report together with the comments of the concerned Government authority, if any, and the action taken or proposed to be taken by the concerned Government or authority on the recommendations of the commission.

Under Section 21<sup>8</sup> of the protection of Human Rights Act, 1993 provided that, a State Commission may inquire in violation human rights only in respect of matter relatable to any of the entries enumerated in list II and list III in the Seventh Schedule to the constitution, provided that if any such matter is already being inquired in to by the National Human Rights Commission duty constituted under any law for the time being in force, the state commission shall not inquire into the said matter.

Under Section 28<sup>9</sup> stated that the state commission shall submit an annual report to the state Government and may at any time submit an special reports on any matter which in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report.

The State Executive shall cause the annual and special reports of the state commission to be laid before each house of State legislature where it consists of two Houses, or where such legislature casuists of one House, before that house along with a memorandum of action taken or proposed to be taken on the recommendation of the State Lamination and the reasons for non-acceptance of the recommendation, if any.

Under Section 30<sup>10</sup> of the Protection of Human Rights Act, 1993 provided that a Human Rights Court. For the purpose of speedy trial of offences arising out of violation of Human rights the State Government may, with the concurrence of the Chief Justice of the High Court by notification, specify for each district a court of session to be a Human Rights Court to try such offences. The State Government may appoint a public prosecutor for the purpose of conducting cases in that court.

**The United Nations Development Fund (UNDF) for Women, 1985:**

The landmark fund was established on 1<sup>st</sup> July, 1985 the United Nations Development for Women. This fund is offering by Governments, international organisations, national committees on the Fund and individuals and governed by UNDP and the fund jointly. The principal concern of the Fund lays with the identification and study of emerging issues relating to women, more particularly, the issue of violence against the women and assistance to refugee women.<sup>11</sup>

The main agenda of the fund was the issue of violence against women and it has been brought to the agenda of the Fund by the women themselves. The Fund, in its effort to eliminate the violence against women its examining the problem from a cross cultural perspectives. It has also sponsored women from developing countries for enabling them to participate at appropriate international events where they can highlight the problem of violence in its true perspective.<sup>12</sup>

The Fund is being aware of the fact that 75 percent of refugees are women and children, making effort to enable the refugee women to become self reliant by adopting skill building measures. It has established projects to provide assistance to the refugee women in Africa, Asia-Pacific, and the Latin America Caribbean region. The project includes provisions for food security, shelter and income earning activities. In this way the Fund is providing assistance to the refugee women in Liberia displaced by the fighting, in Jordan Lebanon and Yemen affected by the economics disruption caused by the Gulf war and in Cambodia, El Salvador, Peru and Malawi, where women was in distress.<sup>13</sup>

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<sup>8</sup> Ibid- Page- 14

<sup>9</sup> Ibid- Page- 18

<sup>10</sup> Ibid- Page- 19

<sup>11</sup> Dr. Chandra U. Human Rights, Fourth Edition 2002, Allahabad Law Publication, P-216

<sup>12</sup> Ibid- Page- 216

<sup>13</sup> Ibid- Page- 217

**The World Conference of the International Women's Year, 1975 :**

It is one more significant International Conference was held at Mexico City from 19<sup>th</sup> June to 2<sup>nd</sup> July, 1975. The Conference adopted: (i) The Declaration of Mexico on the Equality of Women and their contribution to Development and peace 1975, (ii) The world plan of Action for the Implementation of the objectives of the International Women's Year. (iii) Regional Plan of Action, (iv) 35 resolutions and (v) Decision recommending the observance of United Nation Decade for Women and the convening of a second world convocation in 1980.<sup>14</sup>

The world conference of Mexico on the Equality of women and their contribution to development and peace, 1975 incorporated the following major principles:<sup>15</sup>

- a. Fairness between men and women;
- b. Impartial rights and responsibilities of women and men in the family and society;
- c. Justness access to education and training;
- d. The right to work and equal pay for work of equal value;
- e. The right couples and individuals to determine the number and spacing of children;
- f. The right of every women to decide freely whether to marry;
- g. The full participation of women in the economic, social and cultural sector;
- h. The right to participate in and contribute to the development effort;
- i. The role of women in promotions of international co-operation and peace;
- j. The role of women in promoting human rights of all people and
- k. The need to eliminate violation of human rights committed against women and girls.

The International women women's year was designed to stimulate national and international action for solving the problems of underdevelopment and of the socio-economic structures for the reasons of which women were placed in an inferior position. The plan was concerned with the promotion of equality between women and men and to this end, recommended to the Governments to ensure equality before law for men and women, equality of opportunities of education and training equality in condition of employments, including remuneration and adequate social security.<sup>16</sup>

**The Universal Declaration of Human Rights Act, 1948:**

The Universal Declaration of Human Rights Act 1948 on 10 December enumerated the basic postulates and principal of human rights in a most comprehensive manner. It deals not only with civil political rights, but with social and economical rights as well and universally for world nations without any discrimination under Article 1-30 in to the following stated:<sup>17</sup>

**Under Article 1 :**

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

**According to Article 2 :**

Everyone is entitled to all the rights and freedoms set forth in this declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

**The UDSR provided under Article 3 :**

Right to life, liberty and security of persons.

**Under Article 4 :**

Freedom from slavery or servitude.

**According to Article 5 :**

Prohibition against torture, inhuman or degrading treatment or punishment.

<sup>14</sup> Dr. Chandra U. Human Rights, Fourth Edition 2002 Allahabad Law Publication, P-215

<sup>15</sup> Ibid- P- 215

<sup>16</sup> Ibid- P-216

<sup>17</sup> Dr. Chandra U. Human Rights, Allahabad Law Agency Publications, Forth Edition 2002, Page- 374

**Under Article 6 :**

Everyone has right to recognition everywhere as a person before the law.

**According to Article 7 :**

Equality before the law and equal protection of the law without any discrimination.

**Under Article 8 :**

Effective remedy before the national Tribunals.

**The most important provision let down under Article 9 :**

Freedom from arbitrary arrest, detention or exile.

**According to Article 10 :**

Right to a fair and public hearing by an independent and impartial tribunal.

**Under Article 11 :**

Freedom from ex-part facto laws.

**Under Article 12 :**

Right to privacy, family, home and correspondence.

**Under Article 13 Para- I :**

Right to freedom of movement and residence within the borders of a state.

**Under Article 13 Para- II :**

Right to leave any country, including his country.

**Under Article 14 :**

Right to seek and to enjoy in other countries asylum from persecution.

**Under Article 15 :**

Right to a nationality.

**Under Article 16 :**

Right to marry and to found a family.

**Under Article 17 :**

Right to own property.

**Under Article 18 :**

Right to freedom of thought, conscience and religion.

**Under Article 19 :**

Right to freedom of opinion and expression.

**Under Article 20 :**

Right to freedom of peaceful assembly and association.

**Under Article 21 :**

Right to participate in the government of his country.

**Under Article 22 :**

Right to social security.

**Under Article 23 :**

Right to work and free choice of employment.

**Under Article 24 :**

Right to rest and leisure.

**Under Article 25 :**

Right to a standard of living adequate for the health of himself and of his family.

**Under Article 26 :**

Right to education.

**Under Article 27 :**

Right to participate in cultural life.

**Under Article 28 :**

Right to good social and international order.

**Under Article 29 (1) :** Let down everyone has duties to the community in which alone the free and full development of his personality is attainable.

(2) Everyone can exercise the freedom with limitation prescribed by law.

(3) The particular rights and freedoms may in any case be exercised contrary to the purposes and principles of the United Nation.

**According to Article 30 :**

Inserting not anything in this declaration may be interpreted implying for any state group or person any right to engage in any activity or to perform any act and aimed at the destruction of any of the rights and freedom set forth herein.

The universal Declaration, the contemporary Magna Carta of Rights was one of the first major achievements of the United Nations in the field of human rights. The Declaration set for the international community a common standard of achievement. If recognised the inherent dignity and the equal and inalienable rights of all people in all nations.<sup>18</sup>

**The World conference of United Nations Decade for Women : Equality Development and peace :**

In year of the 1980 from 14 to 30 July the world Conference of the United Nations Decade for women: Equality Development and peace was held at Copenhagen<sup>19</sup>. Since the conference was held at the midpoint of the United Nations Decade for Women its work was divided into two parts. The first part was concerned with review and evaluation of the progress made and obstacles in attaining the objectives of the Decade at the national, regional and International level from 1975 to 1980. In addition it considered the impact of apartheid on women in Southern Africa and the effects of Israel occupation on Palestinian Women inside and outside the occupied territories. It was realised that the World Action Plan Could not be realised within a short span of time.<sup>20</sup>

The supplement part, of its work was concerned with formulating the programme of action for the second half of United Nations Decade for Women, 1980-1985. The programme of action so formulated laid emphasis upon the promotion of three main objectives i.e. equality development and peace, with special concern for employment, health and education as they constitute important factors in the process of development. Keeping in view, that human resources cannot attain their full potential without integrated socio-economic development, emphasis was laid upon the development by removing those constraints which hamper the women's full and equal participation in the development. It was also emphasised that those problems of under development and of the socio-economic structure which place women in an inferior position should be solved.<sup>21</sup>

<sup>18</sup> Dr. Agarwal H.O. International Law and Human Rights, Central Law Publication, 14<sup>th</sup> Edition 2007, Page- 737

<sup>19</sup> Dr. Chandr U. Human Rights, Allahabad Law Publication, Fourth Edition- 2002, P-218

<sup>20</sup> Ibid- P- 218

<sup>21</sup> Ibid- P- 218

**The Convention on the Elimination of all Forms of Discrimination against women, (1979 -1981):**

This is one of the milestone conventions for protection of the rights of women in internationally as well. The general assembly of United Nations organization on 18 December 1979 was adopted this convention. The Convention on the Elimination of all Forms of Discrimination came into force on 3 September-1981.<sup>22</sup>

Under Article 2 of the convention including the various following policy for eliminating discrimination against women and the parties of the convention have agreed to undertake:<sup>23</sup>

- (a) To incorporate the principle of equality of men and women in their national constitutions or other appropriate legislation;
- (b) To adopt appropriate legislative and other measures, including sanctions when appropriate prohibiting all discrimination against women.
- (c) to establish legal protection of the rights of women on an equal basis with men and to ensure through competent tribunals and other public instructions the effective protection of women against any act of discrimination.
- (d) to refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation.
- (e) to take all appropriate measures to eliminate discrimination against women organization or enterprise.
- (f) to take all appropriate measures, including legislation to modify or abolish existing laws, regulations, customs and practice which constitute discrimination against women and
- (g) to repeal all national penal provisions which constitute discrimination against women.

The convention states that the great contribution of women to the welfare of the family and to the development of society has been fully recognized and that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between Men and women.<sup>24</sup>

**Conclusion and Suggestions:-**

The Universal Declaration and the contemporary Magna Carta of rights was one of the first major achievements of the United Nations in the field of Human Rights. The Declaration set for the International community a common standard of achievement for equal and inalienable rights of all people in all Nations. So many International and National Conventions are great contributions of women to the welfare of the family and to their development of society and in the family is needed to achieve full equality between men and women and suggested for the proper plan, awareness programme and promotion of equality between men and women in all sectors including equality of opportunities of education and training equality in condition of employments and adequate social security is needful for Muslim women at present days.

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<sup>22</sup> Dr. Chandra U. Human Rights, Allahabad Law publication, Fourth Edition-2002, P-239

<sup>23</sup> Ibid- P-240

<sup>24</sup> Ibid- P-240