

# Women's rights as international human rights law

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# Course materials

- Akademika Bookstore:
  - Compendium 1 and 2
  - Legal texts and cases
    - <http://www.jus.uio.no/studier/regelverk/auxiliary-materials.html>
- Documents adopted by treaty bodies:
  - <http://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx>
  - <http://www.bayefsky.com/tree.php/id/13/misc/general>

# Overview: Development in stages

1. Equality and non-discrimination included in international HR documents
2. Women-specific documents and institutions
3. "Women's rights as human rights": mainstreaming and soft law
4. Today?

# 1948: The Universal Declaration of Human Rights (UDHR)

- Art. 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.”
- Art. 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.”
- Art. 7: “All are **equal before the law** and are entitled without any discrimination to equal protection of the law. All are entitled to **equal protection against any discrimination** in violation of this Declaration and against any incitement to such discrimination.”

# 1966: The Covenant on Civil and Political Rights (CCPR)

- Art. 2.1: “1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, **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.”
- Art. 3: “The States Parties to the present Covenant undertake to ensure the **equal right of men and women** to the enjoyment of all civil and political rights set forth in the present Covenant.”
- Art. 24.1: “Every **child** shall have, without any discrimination as to race, colour, **sex**, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.”
- Art. 26: “All persons are **equal before the law** and are entitled without any discrimination to the equal protection of the law. In this respect, the **law shall prohibit any discrimination** and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

# 1966: The Covenant on Economic, Social and Cultural Rights (CESCR)

- Article 2.2: “The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised **without discrimination** of any kind as to race, colour, **sex**, language, religion, political or other opinion, national or social origin, property, birth or other status.”
- Article 3: “The States Parties to the present Covenant undertake to ensure the **equal right of men and women** to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.”

## 2. Women-specific documents

- Problems identified
  - lack of attention in UN
  - lack of progress on the ground
- 1975: The First UN World Conference on Women (Mexico)
  - 66-75 % of the work
  - 10 % of the income
  - 1 % of the private property
- Recognition of need for women-specific, binding document
  - Institutional advantages
  - Substantive advantages
- CEDAW adopted in 1979, entered into force in 1981

# Overview of CEDAW

- Structure
- Wide range of themes: civil, political, economic, and social rights
- Definition of discrimination (Art. 1)
  - "against women"
  - "effect or purpose", see also Arts. 3 and 4
- Discrimination by private parties (Art. 2.e)
- Structural factors (Art. 2.f and 5.a)



# 3. The 1990s momentum

- 1980s divides
  - CP rights vs. ESC rights
  - Women’s documents vs. ”general” documents
  - Development discourse vs. HR discourse
- 1990s
  - End of cold war
  - UN world conferences
    - Vienna 1993: World Conference on Human Rights
    - Beijing 1995: World Conference on Women
  - NGO participation in international community
  - Treaty bodies increasingly active

# 1990s: Holistic perspectives on HR

- “All human rights are universal, indivisible and interdependent and interrelated.” (Vienna Declaration para. 5)
- “The human rights of women and of the girl-child are an inalienable, integral and indivisible part of universal human rights. The full and equal participation of women in political, civil, economic, social and cultural life, at the national, regional and international levels, and the eradication of all forms of discrimination on grounds of sex are priority objectives of the international community.” (Vienna Declaration para. 18)

# 1990s: Gender mainstreaming

- “The human rights of women should form an integral part of the United Nations human rights activities, including the promotion of all human rights instruments relating to women.” Vienna Declaration para. 18
- “Mainstreaming a gender perspective is the process of **assessing the implications for women and men** of any planned action, including legislation, policies or programmes, **in any area** and at all levels. It is a strategy for making the **concerns and experiences of women** as well as of men an integral part of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres, so that **women and men benefit equally, and inequality is not perpetuated**. The ultimate goal of mainstreaming is to achieve gender equality.” ECOSOC (1997)

# Implications for international HR law

- Proliferation of "soft law"
- Functions of soft law documents
  - Clarify norms
  - Include situations and disadvantages experienced by women
  - Dynamic interpretations: new themes
- By whom?
  - The CEDAW committee
  - Other treaty bodies
  - Other UN institutions
    - Commission on Human Rights
    - Commission on Status of Women, General Assembly, UN development agencies (e.g. UN-Habitat)

# Where are we today?

- Wide range of sources for interpreting women's human rights
- Focus on implementation
- Persistent problems?