

The modern international strategies to limit violence against women

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Abstract:

Violence against women is a blatant violation of human rights in the era of international regulations and conventions that provide local and international guarantees, mainly the UN Declaration on the Elimination of Violence against Women DEVAW 1993. Besides, we find international commissions that monitor the implementation of women human rights, and that some regional conventions devoted articles to denounce violence against women, such as the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women 1994, which relies on the preventive and remedial aspects, and the Protocol of the African Charter on Human and People's Rights on the Rights of Women in Africa 2003. The study recommends the establishment of an international organization that denounces violence against women based on modern criteria with focus on prevention more than on sanction.

Keywords: violence against women; women protection in the international conventions, declarations of violence against women.

Introduction:

Violence against women is an international problem that disrupts advanced and underdeveloped societies, as it marks a violation of the basic rights and freedoms. It has been practiced to mark unequal strength relations between males and females, leading to the male domination over the female and to segregation against women. The latter suffer violence from their fathers, brothers, or husbands, and outside the family from strange men to show their outperformance. In this regard, women face verbal, psychological, physical, and sexual violence, intimidation, and harassment.

This phenomenon has never been discussed as it is today, mainly after the UN has launched alerts about the high rates in both developed and underdeveloped states. Thus, the UN felt the need to provide the maximum security and protection for women, and to empower them to exercise their rights. The UN General Secretary had a vital role against the phenomenon, as it fought and criminalized it. In this context, violence against women is one of the main international topics, with a strong belief that the legal protection is the cornerstone to prevent segregation and oppression and empower women to take part in development.

Based on what was said, this study sheds light on the main global and regional conventions that provide for guarantees to fight violence against women. In so doing, we analyze legal texts that govern this phenomenon to understand its dimensions and goals. In addition, we raise the following problematic, "Do the specialized international –global and

regional- conventions that fight violence against women have enough guarantees to provide the required protection?" To answer this question, we divided the study into two chapters:

- Ensuring women protection from violence in the specialized global conventions.
- Ensuring women protection from violence in the specialized regional conventions.

1. Ensuring women protection from violence in the specialized global conventions¹

Matching violence against women with the human rights adds force to women protection and grants women the right to a violence-free life far from the historical and cultural social backgrounds. The Convention of the Elimination of All Forms of Discrimination against Women did not explicitly provide for banning violence against women; rather, it banned segregation as a whole. Then, the commission made up for this gap through its general comments, which were the main reference for the issuers of 1993 Declaration in deducing the concept of gender-based violence.

1.1 The Convention of the Elimination of All Forms of Discrimination against Women CEDAW 1979:

On 18 December 1979, based on Resolution 34/180, the UN General Secretary issued CEDAW, which came into force on 03 December 1981. Article 17 of the Convention led to the establishment of CEDAW Committee in 1982², which issued two general recommendations. The first, General Recommendation 12, was issued in 1989 and called the member states to include information on their applicable laws for protecting women against all types of daily violence, including physical violence inside the family and sexual harassment in workplaces, in their periodical reports. The second, General Recommendation 19, was issued in 1990 and considered violence against women as a gender-based violence, and that it is a segregation that limits women rights and freedoms and gender equality³.

Besides, the Committee introduced the obligations of the member states and called for taking all practical measures to end all types of violence against women. Moreover, it insisted that the member states have to end all types of violence practiced by individuals, organizations, or institutions⁴, and described gender-based violence as an aspect of sexism, as deduced from the Convention⁵. Besides, the Convention obliges the member states to issue periodical reports on the legislative, judiciary, and administrative measures taken to meet their international obligations towards women rights and fighting violence. The General Comment

¹ The UN Charter of 1945, the International Declaration of Human Rights of 1948, and the International Covenants on Human Rights of 1966 did not explicitly provide for banning or criminalizing violence against women, despite the absolute ban of sexism, human trafficking, torture, and harsh and inhumane treatment. However, they just pointed to banning female trafficking and to women protection during armed conflicts.

² Wail Ahmed Allam, the international Convention for Human Rights, Arab renaissance house, Cairo, 1990, p. 67.

Based on the recommendation of Vienna Conference on Human Rights to foster the mechanisms of protecting women in CEDAW, a committee of experts launched an optional protocol project in 1994, which was adopted by the UN General Secretary on 06 October 1994 and came into force in 2000.

³ General Recommendation 19, violence against women, CEDAW Committee, session 11, 1992, website of the library of human rights, Minnesota University.

⁴ Hanan Radi, the legal protection of women against violence in the Algerian law, Magister thesis, University of Oran, Algeria, 2013, pp. 37-38.

⁵ Mohamed Youcef Alouane & Mohamed Khalil al Moussa, Human Rights International Law- protected laws-, Vol. 02, Culture House for Publication and Distribution, Jordan, 2011, p. 513.

12 recommends that state parties include specific information on violence against women in their period reports to the Committee. This information should cover:

- Legislation in force to protect women.
- Other measures adopted to eradicate violence.
- The existence of support services for victims.
- Statistical data on the incidence of violence.

These reports are an efficient mechanism to evaluate the ability of the state laws and policies to foster women rights and protect women against violence. The reports' examination ends up with final notes that show the advantages and gaps in the domestic applicable laws and measures⁶.

1.2 The Declaration on the Elimination of Violence against Women DEVAW 1993

The UN adopted DEVAW on 20 December 1993 to bridge a big gap in CEDAW, which did not handle violence against women despite being one of the issues recognized by the conferences on women and human rights, and despite being a violation of human rights. Therefore, CEDAW Committee took important measures regarding sexism and defined it as gender-based violence, confirming that violence against women is a violation of internationally recognized human rights⁷. This Declaration reflects a relatively positive orientation and a political obligation to empower women and foster equality. Therefore, the Preamble provides that the General Assembly is fully aware that the enforcement of CEDAW should contribute to ending violence against women and expresses worries about violence against women being an obstacle to equality, development, peace, and to the enforcement of CEDAW.

It adds that violence against women is a violation of human rights and basic freedoms, which deprives women of their rights and freedoms, and expresses worries about failure to protect and foster them. In addition, the Preamble shows that violence negatively affects women development and states that violence against women is a manifestation of unequivalent power relations throughout history, leading to the male domination over females and to the exercise of segregation. Moreover, violence against women is a decisive social mechanism that obliges women to remain dependent to men. Therefore, the Declaration launched alerts about the sufferance of minorities' women who live in rural, underdeveloped, and deprived societies, detained women, old women in nursing homes, and those experiencing armed conflicts.

Article 23 of the Economic and Social Council 90/18 of 24 May 1990 stated that violence against women in the family or the society is a widespread phenomenon that exceeds income, social stratum, or culture, and that must be remedied. In addition, the Resolution of the Economic and Social Council 91/81 of 20 may 1991 recommends establishing a frame that discusses violence against women, and that the UN General Assembly welcomes the role of feminist movements that call for more focus on the nature, rigidity, and size of the

⁶ Ben Attalah Ben Aliya, the legal mechanisms to fight violence against women, Magister thesis, University of Ouergla, 2013, p. 59.

⁷ Laid Moufoki & Lakhder Rabhi, the international protection from violence against women in the international law of human rights, UN as a model, journal of the researcher teacher for legal and political studies, University of Msila, issue 02, 2019, p. 117.

phenomenon⁸. Besides, the declaration defines violence as any violent act driven by anger and leads, or may lead, to physical, sexual, or psychological harm or sufferance of women, including threatening, coercion, or deprivation from freedom in public or private life.

This definition shows that any sexual deprivation or psychological harm against women is violence, and that violence is not only material. In addition, the definition reflects the wide scope of issues covered by violence against women and that policy makers are aware about the issues of violence against women. In this regard, this violence is part of a complicated taxonomy of social practices that devalue women and foster gender inequality. Besides, Article 02 of the Declaration listed the cases of violence, as follows:

- Physical, sexual, and psychological violence in the family, including beating, sexual violation of female children, dowry-based violence, wife rape, female circumcision, and other traditional practices that harm women, unmarital violence, and exploitation-based violence.
- Physical, sexual, and psychological violence in the society, including rape, sexual harassment, intimidation in the workplace and schools, women trafficking, and coercive adultery, etc.
- Civil, sexual, and psychological violence exercised or neglected by the state.

Violence against women may be individual and manifest in the direct or indirect harm by hand or any other act; collective by a group of humans due to ethnic, racial, or cultural reasons and manifest in exclusion or disparagement; or official and manifest in political violence⁹.

In addition, the declaration points to many freedoms and rights that are affected by violence against women, including the rights to life, equality, freedom, personal security, equal legal protection, safety from segregation, physical health, equal work conditions, and safety from torture or harsh and inhumane treatment or sanction¹⁰. Furthermore, Article 04 of the Declaration shows the measures that must be taken to foster the legal protection of women who face violence by condemning violence against women far from any customs, traditions, or religious considerations to avoid the obligations to end violence against women. The states must use all suitable tools and policies to end this problem¹¹.

2. Ensuring women protection from violence in the specialized regional conventions

The regional conventions are an important source for freedoms and rights because they express the common vision of the states that share the same history. They are the first step towards global conventions¹². Regarding violence against women, the regional conventions cover different mechanisms to enforce and evaluate the state liability if it violates its commitments. The best examples are the Inter-American Convention on the Prevention,

⁸ Hanan Radi, op. cit., pp. 48-49.

⁹ Ibid, pp. 50-51.

¹⁰ See Article 03 of CEDAW.

¹¹ Chemama Bouteraa, the role of the UN General Assembly in fighting violence against women in peace, journal of human sciences, University of Constantine, issue 01, June 2020, p. 214.

¹² Mostafa Abdel Ghaffar, the guarantees of human rights at the regional level, center of Cairo studies for human rights, Cairo, 2003, p. 54.

Punishment, and Eradication of Violence against Women 1994 and the Protocol of the African Charter on Human and People's Rights on the Rights of Women in Africa 2003.

1.2 The Inter-American Convention in the Prevention, Punishment, and Eradication of Violence against Women 1994

It is one of the main and effective regional documents that denounce violence against women and the most signed by the members of the Organization of American States¹³. It was adopted in the 42nd session of the General Assembly of the Organization of American States on 09 June 1994 in Brazil. It includes 05 chapters. The first covers the definition and range of violence against women and considers violence as any gender-based act or behavior that leads to death or physical, sexual, or psychological harm in public or private spaces. As for the scope, it covers private, social, and state practiced or neglected violence¹⁴. In this context, the state must end violence against women by empowering them to exercise equal rights with men and ban the employees from exercising any violence against women. In addition, the domestic administrative measures and laws of the member states must ensure sufficient protection from violence, examine its causes and effects, and take legislative measures to enforce this Convention.

The Convention uses the expression “without delay” to oblige the member states to enact laws that fight violence against women, or to amend laws to suit the Convention. Although the articles of this Convention are similar to CEDAW articles, they focus more on the preventive side and on raising awareness¹⁵. In the preventive and therapeutic side, Article 08 of the Convention called for the gradual enforcement due to the degenerative vision and patriarchy. Thus, the state must raise awareness by focusing on the cultural aspects that harm women, and by launching formal and informal educational programs to face the harmful practices that foster women inferiority and male superiority.

Prevention starts with training police and justice men, providing specialized services, including shelter and advice through general and special agencies for women victims of violence, and launching training and readaptation programs to women who suffered violence to empower them to fully participate in the public, private, and social life. In this context, the media outlets have a vital role in ending and opposing violence, and in fostering international cooperation and experience exchange. The Convention's member states should provide information on the measures taken to fight violence against women, help the victims, and notify the committee established by the Convention about the difficulties faced during the application of the measures and the factors leading to violence.

In addition, the Convention allows any person or any group legally recognized by the law of the member states to report the violations mentioned in Article 07 to facilitate the enforcement of the Convention provisions and considered the report on violence against women as very decisive for accountability and cooperation between the member states of

¹³ Amina Bouzidi Mhamdi, the global and regional guarantees to fight violence against women, journal of studies and researches, University of Djelfa, issue 05, June 2019, p. 432.

¹⁴ See Article 02 of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women 1994.

¹⁵ See Article 07 of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women 1994.

FOLLOW UP Convention and the member states of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women¹⁶.

2.2 The Protocol of the African Charter on Human and People's Rights on the Rights of Women in Africa 2003¹⁷:

Its protocol makes reference to Articles 02 and 18 of the African Charter on Human and People's Rights and builds up on Dakar Declaration of 1994 and Beijing Platform for Action 1995. Despite the African states' approval of human rights conventions, statistics still show harmful and aggressive practices against women. Therefore, it is necessary to set a protocol to bridge the gaps of the African Charter based on its Article 66. According to the Protocol, ending violence requires fostering gender equality and adjusting typical social roles to reduce the traditional practices that harm women health and rights to life, safety, and security. Besides, the Protocol obliges the states to respect and promote women rights by taking suitable measures to ban women exploitation and protect them from all types of verbal and sexual violence.

In addition, the states must ban all types of exploitation and brutal, inhumane, and humiliating treatment through a set of measures, including:

- Enacting laws that ban all types of secret or blatant violence against women, including undesired sexual relations.
- Taking other necessary legislative, administrative, social, and economic measures to ensure banning all types of violence against women.
- Punishing all violence commissioners, launching readaptation programs for victims of family violence, banning and condemning women trafficking, and protecting women who face major risks of women trafficking.

During armed conflicts, the member states pledge to protect female asylum seekers, returners, and women without shelter from all types of violence, rape, and sexual exploitation, and to ensure considering these violence acts as war crimes and/or genocide/ or crimes against humanity, and to bring the criminals to justice before a competent criminal jurisdiction. In this regard, the Protocol widened the definition of CEDAW, as it included in its scope economic harm or violence¹⁸. According to Article 62 of the Charter, the member states have to include, in their periodical reports, information on the legislative measures that aim at protecting the rights recognized in the Protocol, and to adopt all necessary measures and provide financial

¹⁶ Amina Bouzidi Mhamdi, op. cit., p. 432.

¹⁷ The Charter, which was ratified by the Council of African Presidents in its 18th ordinary session in Nairobi in 1981, came into force on 21 October 1986. It includes a preamble and 68 articles. The Preamble provides for making sure of equality and people's right for auto-determination, fighting colonialism, the right to development, and fighting racism. Three chapters follow the Preamble. However, no text bans violence against women despite the calls for good treatment and dialogue between the society members. This gap was bridged by the Protocol of 2003.

See: Abdel Aziz Kadri, the human rights in the international law and the international relations- contents and mechanisms-, Vol. 06, Houma house, Algeria, 2008, p. 13.

¹⁸ Paragraph Y of Article 01 of the Protocol states that violence against women refers to all actions against women that cause or may cause physical, sexual, or psychological sufferance or economic harm, including threatening to perpetuate such actions, imposing coercive restrictions on women, or depriving them from the basic freedoms in public and private life in peace, conflicts, or wars.

resources to ensure the full and efficient enforcement of the rights recognized in the Protocol¹⁹.

Conclusion:

Our findings show that the international society has, lately, understood that violence against women is a violation of human rights and a crime against humanity. This crime has physical, psychological, and sexual manifestations. Besides, women trafficking, exploitation, and coercion to adultery are other manifestations. Despite the big international interest, the UN efforts against this issue, and the debate about an additional protocol, statistics show alarming numbers all over the world. Therefore, CEDAW was issued in 1979 and DEVAW in 1993. Besides, the regional conventions devoted texts to denounce violence against women. In this regard, the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women 1994 is a good example, as it adopts preventive and remedial aspects at the same time, unlike the African declarations that show deficits in handling the issue.

Based on what was said, we recommend:

- Introducing a clear and comprehensive definition for violence against women and a clear statement on the rights that must be enforced to ensure ending the issue with all its aspects, the states' commitment to their responsibilities, and the social society's commitment to fighting the phenomenon.
- The legal thought and international action must focus on establishing an international organization that denounces violence against women based on modern criteria that foster prevention more than sanction. Such organization would represent a logical and natural development of the international movement in the field and the body that can solve the problems that face the application of the international law. In this context, ensuring the protection of women from violence requires a minimum of human and material potentials.
- The inferior view of women must be handled through cooperation with the civil society organizations to raise awareness and spread tolerance culture, and through allocation of financial resources to help the organizations that assist violence victims. Besides, the state must introduce the concept of family and foster values in the educational curricula.

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¹⁹ Ben Attalah Ben Aliya, op. cit., pp. 84-85.

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