



United Nations Entity for Gender Equality
and the Empowerment of Women

**AGENDA: WOMEN EMPOWERMENT AND SAFETY WITH SPECIAL EMPHASIS
ON CJS OF RESPECTIVE COUNTRIES**

LETTER FROM CHAIR:

Distinguished Delegates.

It is my honour to welcome you to the Virtual Edition of ODM Model United Nations conference of 2020, on behalf of my own as well as in the name of the Vice-Chairperson, Mr. Parvez Tamboli.

My name is Sweta Mishra, a Final Year law student of Symbiosis Law School, Hyderabad and would be serving as the Chairperson of The United Nations Entity for Gender Equality and the Empowerment of Women (UN-WOMEN).

I believe that this study guide will help to aim at your research with a list of sources where you can find some basic information about the Agenda and help you in finding the major points of clash. However, I would encourage you to do further reading to gain a deeper insight into the issue. The more information pertaining to the agenda you will have, the better-quality as well as productive discussion you can lead. Likewise, it would be recommended for you to put special emphasis on the position of the country you will represent as well as on the positions of the countries that can be your closest allies or major opponents. The better you know about the position of these states, the better you can cooperate on defending your own position and can recommend such successful solutions that have been implemented in your own country.

I look forward to an enlightening and productive discussion.

Regards

Sweta Mishra (Chairperson)

Parvez Tamboli (Vice-Chairperson)

INTRODUCTION:

Attaining equality between women and men and eliminating all forms of discrimination against women are fundamental human rights and United Nations values. Women around the world nevertheless regularly suffer violations of their human rights throughout their lives, and realizing women's human rights has not always been a priority. Achieving equality between women and men requires a comprehensive understanding of the ways in which women experience discrimination and are denied equality so as to develop appropriate strategies to eliminate such discrimination.

The battle for gender justice has been a long-drawn struggle. The sustained efforts of several social reformers, even in the face of resistance from social orthodoxy, have given impetus to the course of gender justice. Constitutional provisions, various laws and judgments of courts have made their own contribution to the cause of gender justice. However, more fundamental is the work and role of social reformers who sought to change the mindset of orthodox, tradition-bound society to usher in women's reforms in the social, economic and educational fields

Women as a core group of concern emerged as a major theme in the 'Millennium Development Goals'. The Millennium Development Goals are the eight goals set by the United Nations in 2000 which was to act as yardstick to determine the advancement in the direction of the obliteration of global poverty. UN stated 'Gender Equality and Women Empowerment' as one of the Millennium Development Goals to be attained by the year 2015. The term women empowerment implies the ability of a woman take all the important decisions independently related to her, throughout her life span that will ensure her success in all aspects of life.¹

WOMEN'S RIGHTS ARE HUMAN RIGHTS:

Women's rights have been at the heart of a series of international conferences that have produced significant political commitments to women's human rights and equality. The rights of women belonging to particular groups, such as older women, ethnic minority women or women with disabilities, have been also addressed in various international policy documents such as the International Plans of Action on Ageing (Vienna, 1982 and Madrid, 2002), the Durban

¹ Sutapa Saryal, Women's Rights in India: Problems and Prospects (Feb. 09, 2019, 6:30 PM)
<http://www.isca.in/IJSS/Archive/v3/i7/9.ISCA-IRJSS-2014-84.pdf>

Declaration and Programme of Action (2001) and the World Programme of Action concerning Disabled Persons (1982)

a) Protection of the Human Rights of Women under International Law

Since the founding of the United Nations, equality between men and women has been among the most fundamental guarantees of human rights. Adopted in 1945, the Charter of the United Nations sets out as one of its goals “to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, and in the equal rights of men and women”. Furthermore, Article 1 of the Charter stipulates that one of the purposes of the United Nations is to promote respect for human rights and fundamental freedoms “without distinction as to race, sex, language or religion”. This prohibition of discrimination based on sex is repeated in its Article 13 (mandate of the General Assembly) and Article 55 (promotion of universal human rights). In 1948, the Universal Declaration of Human Rights was adopted. It, too, proclaimed the equal entitlements of women and men to the rights contained in it, “without distinction of any kind, such as sex.” In drafting the Declaration, there was considerable discussion about the use of the term “all men” rather than a gender-neutral term.² The Declaration was eventually adopted using the terms “all human beings” and “everyone” in order to leave no doubt that the Universal Declaration was intended for everyone, men and women alike.

b) Vienna Declaration and Programme of Action

In 1993, the World Conference on Human Rights was held in Vienna. It sought to review the status of the human rights machinery in place at the time. Women’s rights activists mobilized to ensure that women’s human rights were fully on the agenda of the international community under the rallying cry “Women’s Rights are Human Rights.” The Conference was successful in adopting the Vienna Declaration and Programme of Action, which stated that “the human rights of women and of the girl-child are an inalienable, integral and indivisible part of universal human rights”.³ The Programme of Action also called for “the eradication of any conflicts which

² Vol. 13, Johannes Morsink, Women’s rights in the Universal Declaration, Human Rights Quarterly, No. 2 (1991).

³ Para 18, Vienna Declaration and Programme of Action (Feb. 11, 2019, 10:00 AM)
<https://www.ohchr.org/en/professionalinterest/pages/vienna.aspx>

may arise between the rights of women and the harmful effects of certain traditional or customary practices, cultural prejudices and religious extremism”.⁴

c) Beijing Declaration and Platform for Action

Adopted during the Fourth World Conference on Women in September 1995, the Beijing Declaration and Platform for Action focused on 12 areas concerning the implementation of women’s human rights and set out an agenda for women’s empowerment. The Platform for Action includes a series of strategic objectives to eliminate discrimination against women and achieve equality between women and men. It involves political and legal strategies on a global scale based on a human rights framework. The Platform for Action is the most comprehensive expression of States’ commitments to the human rights of women.

While there is an increasing acceptance of gender equality, many countries have not yet implemented fully the provisions of the Convention. Discriminatory legislation as well as harmful traditional and customary practices and negative stereotyping of women and men still persist. Family, civil, penal, labour and commercial laws or codes, or administrative rules and regulations, still have not fully integrated a gender perspective. Legislative and regulatory gaps, as well as lack of implementation and enforcement of legislation and regulations, perpetuate *de jure* as well as *de facto* inequality and discrimination.⁵

WOMEN AND CJS (TAKING THE EXAMPLE OF INDIA):

The victim of crime has been the oblivion man of the criminal justice system. The focus has been mainly and always been on the criminal crime, none on the victim, i.e., the by-product of the crime. By the beginning of the 20th century, it can be seen the status of victim in the criminal justice system was minimal. They played a role obviously in reporting to the police and there was minimal legislative provision for compensation. The victim of crime occupying a position of almost complete obscurity for centuries has how emerged and has been accepted as a person worthy of attention in nations across the world. Intellectual and government concern for

⁴ Para 38, The Equal Status and Human Rights of Women, Vienna Declaration and Programme of Action (Feb. 11, 2019, 11:10 AM) <https://www.ohchr.org/en/professionalinterest/pages/vienna.aspx>

⁵ Para 27, UN General Assembly Resolution S-23/3 (Feb. 11, 2019, 1:22 PM) http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/S-23/3

victim of crime and his plight remedy are of recent vintage. Victimology remained surprisingly on the periphery of the criminological research until recent years. The attention which has been directed in recent years to that 'poor relation' of criminal law, has led to crystallization of professional and public opinion in favor of alleviating the predicament of the forgotten figure of the contemporary criminal justice system, that is where **victim becomes Cinderella of the criminal trial in India**. Thus far the Indian legal regime has failed to protect victims' rights in two fundamental ways: failing to enact suitable laws and, where it has, failing to implement both the letter and spirit of the law. The genesis of victim right emerges with human rights. The violation of human rights is ought to create a victim. Victim of any crime and of human violations (regardless of their status) have a right to be compensated for the losses sustained due to the crime committed on her/him. Compensation can be sought through criminal, civil and administrative procedure for material and non-material damages. The present day study, to a large extent focuses on victims right violation – i.e., when the court moulds the relief by granting compensation article 32 and 226 of the constitution seeking enforcement or protection of fundamental rights, acknowledging the inadequacy of convention judicial remedies in the type of cases concerned with the violation of fundamental rights. The compensation orders and criminal injuries compensation touch only the tip of ice berg; they reach only a minority of victims and in no way adequately address victim's problems. They provide inadequate financial solution to the victim's problems; in no sense do they either promise or deliver justice. Hence, there is a need in welfare state, **to evolve scheme of payment of compensation by state in cases of crimes**. Indian constitution deems social justice and therefore, India needs victim compensation scheme for equitable and effective reparation of victim of crime. Victim compensation is a new horizon in setting claims for losses incurred and quenching the thirst for retribution. Novel concept of victimology is a step towards fulfilling the avowed promises made by constitution makers. Life of law is not logic but experience. Experience is the basis for the development and evolution of law, which cannot be allowed to remain static. The judiciary in various jurisdictions has been involved in developing law to meet the changing needs of the society. Anxiety about social justice and the removal of discrimination on all irrational grounds has caused judges like Krishna Iyer to become exemplars of a kind of judicial activism that is often in tune with deeply felt emotions Of ordinary citizens. Judicial activism is nothing but participation in the constitutional progress towards the realization of the economic and social values of life through insertion of

directive principles of state policy, which is in a different way a fulfillment of the function of welfare state and enforcement of the resolve of Indian government to make people happy and well-fed. This research work is directed to depict various facets of the victims, their roles, hurdles, historical perspective to legislative and judicial response towards the idea of making the prospects for the victim as a whole. The important of this study evaluates the victim compensation schemes/programs in various countries and recommend a victim compensation scheme suitable for India. In doing so the concept of victim of crime in brief, classification of victims and the work done on victimology in India and other countries so far have been taken into consideration.

MODERN CRIMINAL JUSTICE SYSTEM:

INTERNATIONAL PRESPECTIVE:

The victim of crime after occupying a position of almost complete obscurity for centuries, has now emerged and been accepted as a person worthy of attention in nation across the world. The interest in the victims of crime has been quite rapid in the nineteen and eighties during which time many international symposia were held to focus attention on the victims of crime. In 1979, the world society of victimology was formed and the seventh congress on prevention of crime and treatment of offenders in 1985, focused attention on the problem. In recent years, almost all the countries of Europe and North America have passed legislation to protect the interest of crime victims. **Justice Benjamin N. Cardozo of Supreme Court of the United States** “Justice, though due to accused, is due to accuser also. The concept of fairness must not be strained till it is narrowed to a filament. We are to keep the balance tree”. Even so crime victims have not been treated fairly. Somewhere along the way the system began to serve lawyers, judges and accused, treating the victim with institutionalized disinterest.⁶ In some years ago, **Lord Denning** of United Kingdom, said “so far as concerns compensation for victims of crime, we have a system whereby the victims of violent crime, such as murder, are paid ex-gratia sums by the state....” this not statutory scheme is really unique and working well there. The UN General Assembly in November, 1985 adopted the “Declaration of basic principles of justice for victims of crime and abuse of power” which gave global recognition to the crusade against

⁶ The statement of the chairman, US president task force on actions of crime final report (1982) quoted in Snyder vs. Massachusetts (1934)

victimization. Due to this declaration, victimology today recognizes the right of victims to remedies arising from abuse of power, violation of fundamental rights or causing other suffering or injury through acts or omissions that do not yet constitute violations of National criminal laws but of internationally recognized norms relating to human rights.

INDIAN PERSPECTIVE:

In Indian context, criminal justice system is stemming from the Anglo-Saxon pattern tends to take the victim for granted and is more concerned with the offender, his activities, his rights and his correctional needs. Under the present accusatorial criminal justice system in vogue in India, an accused is presumed to be innocent till proved guilty and the burden of proof always rests on prosecution. "It is a weakness of our jurisprudence that the victims of crime, and the distress of the dependants of the prisoner, do not attract the attention of the law. Indeed, victim reparation is still the vanishing point of our criminal law. This is a deficiency in the system which must be rectified by the legislature. We can only draw attention in this matter"**-Justice Krishna Iyer**⁷. The concept of victim rights as whole has been in shackles in India since the ancient times. The right is coupled with rights and privileges. The advent of British system of jurisprudence gave a new dimension in this concept. It influenced the Indian political and social thinkers who gave prominence to the rights oriented social systems, wherein these rights meant individual rights under the codified law. Since the individualism prevailed over the collective existence of human being, the judiciary too applied the innovative technique to recognize the individual as a subject of right by extending the scope of rights. The judiciary not only protected the rights given in the written chapters but created new position rights also. Judicial decisions contributed tremendously to bring out essence of fundamental right enshrined in the Indian constitution. But, one must not lose the sight of the fact that the most important object of criminal law is undoubtedly in the protection of primary personal right to life, personal liberty and property in their wider connotations against unlawful invasion by other –the lawless, disorderly, the violent, the fraudulent and the predatory. There must be tremendous shifting in the Indian criminal justice system. Under the current system, the state undertakes to protect the public against the crime and then, when loss occurs, takes the entire payment and offers no effective remedy to the victim. The befitting remarks concerning victims position in India by

⁷ Rattan Singh vs. state of Punjab, AIR 1980 SC 84.

Supreme Court justice; **‘Tears shed for the accused are traditional and trendy but has the laws none for the victim, an unknown martyr?’** Undoubtedly, the comment represents the Indian position on crime victims.

CONCLUSION:

There may be many number of rights defined for the victims but the reality remains to be somewhat different with inadequacy and enforcement issues with such rights. There are two sections in the society; one that is accused and the other being victims out which the accused rights, punishment and rehabilitation is being widely discussed but little heed is being paid to the victim needs. The situation demands for the victim’s rights to be treated as the basic human rights than just being considered as a part of the criminal justice process. A proper statutory scheme is required to deal with victim’s rights in comparison to the present situation where it is dealt in fragments. The hard truth is that the concept of victimology remains to be a paper work in our country while in reality it had little practical utility. Apart from the statutory scheme the role of courts and judge remain is greater value in leaving an impact through their decisions on the social order. However restitution may not cover sufferings like emotional trauma unlike possible future losses. In nutshell it can be said that the immediate requirements to restore the rights of victims include compensation, freedom to choose one’s own lawyer and security of the victim. **“Human rights are not only of the accused but, extent apart, also of the victim, the symbolic member of the society as the potential victim and the society as a whole”**. Law has to cater to wide variety of situations as appear in the society. Law being dynamic, the certainty of the legislation appears rigid at times whenever a circumstance appears which is not carried for explicitly. Expediency then dictates that the higher judiciary, while interpreting the law, considers such exception(s) as are called for without disturbing the pith and substance and the original intention of the legislation. **Let us hear their loud cry today – tomorrow may be too late.**

SOURCES:

1. <https://www.un.org/youthenvoy/2013/07/un-women-the-united-nations-entity-for-gender-equality-and-the-empowerment-of-women/>
2. <https://www.unwomen.org/en/digital-library/publications/2011/10/women-s-empowerment-principles-equality-means-business>
3. <https://sustainabledevelopment.un.org/topics/genderequalityandwomensempowerment>
4. <https://www.unfpa.org/resources/issue-7-women-empowerment>
5. <https://in.reuters.com/article/women-un/u-n-to-tackle-gender-equality-chief-calls-it-greatest-rights-challenge-idINL1N2GR1LN>
6. <https://in.reuters.com/article/filmfestival-venice-saudi-women/saudi-women-directors-bring-empowerment-message-to-venice-idINKCN1VR16X>
7. <https://in.reuters.com/article/usa-trump-flotus/melania-trump-hails-empowerment-of-women-at-saudi-company-visit-idINKBN18H0PI>
8. <https://in.reuters.com/article/idINL8N2BJ682>
9. <https://in.reuters.com/article/idINL8N2BO5YQ>
10. <https://www.un.org/sustainabledevelopment/gender-equality/>