

**UNIVERSITY OF ESSEX
SCHOOL OF LAW**

DISSERTATION

LLM/MA IN: MA THEORY AND PRACTICE OF HUMAN RIGHTS

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DISSERTATION TITLE

A human rights-based approach to discrimination in the workplace: a gender analysis of formal and informal work and the allocation of jobs.

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Abstract

When people talk about “discrimination in the workplace” they connect it with multiple forms of discrimination such as discrimination against people of colour, religious groups or nationality but maybe mostly with people with disabilities at work. Efforts have been made in recent years to change the way states operate and force governments to diminish the discrimination and promote the equality in businesses. Despite the campaigns efforts to tackle the issue all over the world, people argue that sex inequality has not been solved adequately. Eventually women have made their steps and achieved an important role at work by slowly reaching higher ranks, but they still are trying to break through the glass ceiling. It is supported that women take jobs that have to do with ‘helping out’ such as assistants and men take jobs that concentrate power and money. Is it true? This will situate non-discrimination within the broader scope of IHRL through thinking about economic and social rights. In addition, the right to non-discrimination and its application at work will be situated within the work of other international bodies focusing on gender discrimination and work such as ILO. The ways in which jobs are allocated and the barrier that women face as well as gendered informal working patterns will be used as case examples in order to understand the current reach of the right to non-discrimination and think through the ways in which a human rights-based approach to this issue may be improved.

Introduction

To begin with, women do not have an advanced position in society globally¹. However, they officially started claiming their social, economic and political rights in the second decade of twentieth century in the International Congress of Women which took place in Hague². Social movement was not an easy process for women, they had to form small groups in order to act and solve issues that had to do with same payment and opportunities with men, their general protection in society and also family caregiving³. They managed to set up the League of Nations and the International Labour Rights (ILO) and gain slowly the promotion and protection of their rights, firstly their access to workplace and their equal treatment but not their right to vote⁴. Moreover, international law included a treaty entirely based on Women's Rights in 1979, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)⁵. Nevertheless, law had to decrease the gender obstacles that arise because women as human beings cannot correspond to men's reality⁶.

It is said that men and women are not the same. From the way both genders think to the way they act in their daily life they direct social life in different ways, even when they do same things sometimes⁷. But the question is why gender defines the operation of societies and why men are advantaged in them⁸. The concept of gender definition is based upon four perspectives. The first one supports that gender definition comes from the approach that society follows⁹. For instance, some countries promote men as a strong presence which dominates societies but in other countries women are the powerful presences¹⁰. Secondly, there has been an eventual change in the way that men used to act the past centuries and the way that they do it now¹¹. The third perspective is analysing one's experience and the change that has gone through in personal and social life among the years, the

¹ Hilary Charlesworth and Christine Chinkin, *The boundaries of the international law: A Feminist Analysis* (Manchester University Press 2000) 14-18.

² Ibid 14-15.

³ Nickie Charles, Feminism, Social Movements and the Gendering of Politics in Diane Richardson and Victoria Robinson (eds), *Introducing Gender and Women's Studies* (3rd edn, Palgrave Macmillan 2008) 36.

⁴ Hilary Charlesworth and Christine Chinkin n(1) 15.

⁵ Ibid 16.

⁶ Hilary Charlesworth and Christine Chinkin (n1) 17.

⁷ Michael Kimmel and Amy Aronson, *The Gendered Society READER* (6th edn, OUP 2017) Introduction xi-xvii.

⁸ Ibid xii.

⁹ Ibid xiii.

¹⁰ Ibid.

¹¹ Ibid.

development is different¹². The last perspective to define gender focuses on the different grounds that one person has. In particular, not all human beings with the same nationality are technically same¹³. They might have different religion, political opinion or colour¹⁴. In contrast, there is an exaggeration of the topic, the “emphasized femininity” as Kimmel and Aronson argue¹⁵. They support Connell’s view who says that women can adopt men’s abilities and follow their rules very well, something that makes women struggle more in order to win a place at work¹⁶.

Regarding all these approaches of giving gender a definition, we assume that differences which can be found, should not be an obstacle to the way society treats women. These differences might make space for a gender discrimination in different social levels such as the workplace. For instance, an employer might decide to give a woman a low paid position at his company because he might assume that she is only suitable for assisting and not for managing. As a result, there might arise a discrimination in the allocation of jobs. Additionally, women that are taking care of their children at home they do not get paid and also men do not help them at this work. So, there is a gap between formal and informal work. All these issues are going to be situated in a human rights context in the next chapters.

¹² Ibid xiii-xiv.

¹³ Ibid xiv.

¹⁴ Ibid.

¹⁵ Ibid xv.

¹⁶ Ibid.

Chapter 1: Different Views in Different Frames

I. Discrimination and Gender Equality:

International Law:

Equality is a highly debated issue around the world. On the one hand, it is lawfully assured by the human rights records which leads to the assumption that all people around the world know what equality involves¹⁷. On the other hand, it is difficult to clarify the word because there are things we need to sort out. A first question that arises when equality is being said, is whether or not similar people is correct to be dealt with the same way¹⁸. In both answers, yes or no, we need to check if the equal treatment should be applied in every situation¹⁹. Unfortunately, equality does not apply to all human beings since they are equal but not same which means that different factors make people different²⁰. It has to do with gender, nationality, race, colour, religion. A main factor of inequality is the gendered-based discrimination and according to Fredman, “for centuries, it was openly asserted that women were not ‘like’ men” something that made women’s position discriminated in social and private life²¹. Not only law but also feminist legal theory has introduced a further analysis on the issue of discrimination. For the purposes of the dissertation, gender discrimination will be clarified from a legal and a feminist aspect.

In terms of the International Law, the Charter of the United Nations highlights the importance of non-discrimination between people and the “respect for human rights and for

¹⁷ Sandra Fredman, *Discrimination Law* (2nd edn, OUP 2011) 1.

¹⁸ Ibid 1.

¹⁹ Ibid 2.

²⁰ The grounds of non-discriminations are: “race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”. See UN Committee on Economic, Social and Cultural Rights (CESCR), *General comment No. 20: Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights)*, 2 July 2009, E/C.12/GC/20, available at: <https://www.refworld.org/docid/4a60961f2.html> [accessed 13 August 2019].

²¹ Sandra Fredman (n17) 1.

fundamental freedoms for all without distinction” according to article 1(3)²². Particularly, in the Universal Declaration of Human Rights (UDHR) is guaranteed that “all human beings are born free and equal in dignity and rights” by article 1 and people can enjoy their rights “without distinction of any kind” by article 2 and 7²³. Moreover, the International Covenant on Civil and Political Rights (ICCPR) in article 2, 3, and 26 and the International Covenant on Economic, Social and Cultural Rights (ICESCR) in article 2(2) and 3 promote and protect the right to non-discrimination and the equality between men and women²⁴. But the treaty that gives an explicit clarification of what gender discrimination particularly means, it is the CEDAW which was created in order to protect women’s rights globally²⁵. Apparently, there are slight differences in the conventions regarding the right to non-discrimination and the sex equality.

Firstly, it is important to clarify the meaning of non-discrimination. Basically, it means that people should not receive any different behaviour because they have different characteristics from others whereas equality means that all people should receive the same treatment²⁶. The first one refers to the process and the latter refers to the steps that must be taken in order to treat human beings equally, in other words the result matters mostly²⁷. But the problem is that sometimes different treatment is inevitable between two parties. For instance, when someone gains more money than someone else, the taxes that he has to pay

²² United Nations, *Charter of the United Nations*, 24 October 1945, 1 UNTS XVI, available at: <https://www.refworld.org/docid/3ae6b3930.html> [accessed 13 August 2019].

²³ UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), available at: <https://www.refworld.org/docid/3ae6b3712c.html> [accessed 13 August 2019].

²⁴ UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, available at: <https://www.refworld.org/docid/3ae6b3aa0.html> [accessed 13 August 2019] ; UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, available at: <https://www.refworld.org/docid/3ae6b36c0.html> [accessed 13 August 2019].

²⁵ “Among the international human rights treaties, the Convention takes an important place in bringing the female half of humanity into the focus of human rights concerns. The spirit of the Convention is rooted in the goals of the United Nations: to reaffirm faith in fundamental human rights, in the dignity, and worth of the human person, in the equal rights of men and women. The present document spells out the meaning of equality and how it can be achieved. In so doing, the Convention establishes not only an international bill of rights for women, but also an agenda for action by countries to guarantee the enjoyment of those rights”. See also UN General Assembly, *Convention on the Elimination of All Forms of Discrimination Against Women*, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13, available at: <https://www.refworld.org/docid/3ae6b3970.html> [accessed 13 August 2019].

²⁶ Daniel Moeckli, ‘Equality and Non-Discrimination’ in Daniel Moeckli, Sangeeta Shah and Sandesh Sivakumaran, *International Human Rights Law* (3rd edn, OUP 2018) 149-150.

²⁷ Ibid.

are more²⁸. In this case, the discrimination is well-founded and valid because the states authorities have agreed on “morally acceptable grounds”, as Daniel Moeckli argues²⁹. Assuming that there is a distinction between two human beings, the law must evaluate whether the discrimination is due to the approach or the result³⁰. The Human Rights Law divides the discrimination into direct and indirect³¹. Direct discrimination is when same human beings that belong to the same group are treated differently and not alike³². In contrast, indirect discrimination is when people are treated equally which can bring unlike outcomes³³. The scenario takes other path when gender discrimination comes in the foreground.

Considering article 1 of CEDAW, “the term ‘discrimination against women’ shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field”³⁴. The Convention protects women from lots of kinds of distinction, from both direct and indirect discrimination and it also makes clear that women should act out all the rights they have³⁵. Moreover, it obliges states to do whatever it takes in order to guarantee the equality and it allows women receive different behaviour if they have different backgrounds, ways that lead to ‘substantive equality’, as Dianne Otto argues³⁶. On the other hand, the law can establish the gender inequality because in real life not all kinds of distinction that might happen, can be protected legally³⁷. The distinction should be ‘reasonable’ and ‘proportionate’ in order to be legal, a gap that gives access to gender bias to arise and let women’s rights be violated³⁸. In addition, law does not respect and protect similarities that both genders have and also it unsuccessfully protects their unlike characteristics because “treatment that

²⁸ Ibid 150.

²⁹ Ibid 150.

³⁰ Ibid 155.

³¹ Ibid 155.

³² Sandra Fredman (n17) 166.

³³ Ibid 177.

³⁴ CEDAW (1979) article 1.

³⁵ Dianne Otto, ‘Women’s Rights’ in Daniel Moeckli & others (n26) 315-317.

³⁶ Ibid.

³⁷ Rebecca J. Cook and Simone Cusack, *Gender Stereotyping: Transnational Legal Perspectives* (University of Pennsylvania Press 2010) 105.

³⁸ Ibid.

pays equal regard to the differences” matters too, as Cook and Cusack support³⁹. This is an issue that states are called to solve in order to assure their citizens’ protection, according to the international treaties. But states also fail sometimes to fulfil their obligations. Feminism follows a path that gives women protection of potential discriminations that are not always visible.

Feminism:

Feminism focuses on making a world for women with equal opportunities, freedoms and rights with men in all the fields of life. Equality between men and women is based upon three pillars according to feminism, which are the sex discrimination, the gender oppression and the sexual subordination⁴⁰. The first one refers to the bias against women which do not have logical explanations and shut women’s way to enjoy their social, economic and political opportunities⁴¹. For instance, Littleton’s evidence shows that there are jobs which hire men because of illogical beliefs⁴². The gender oppression is linked with the distinctions that occur when women behave like women because of their nature which can block women’s access to employment too⁴³. The third pillar deals with bias that appear when women are underestimated by society, an example that can sometimes be found for unequal remuneration based on skills that one can assume genders possess rather than justify them⁴⁴. The above feminist theories may interact sometimes, but it is supported that they address the issue of inequality from all the possible aspects⁴⁵.

Feminism is challenging the limits of human rights law considering the equality from the perspective of difference and acceptance. Firstly, it is socially approved that difference means inequality without any further justification⁴⁶. Particularly, when one compares things starting from a specific point of view, it is reasonable to see the existing similarities and connect equality with

³⁹ Ibid 108.

⁴⁰ Christine A Littleton, 'Equality and Feminist Legal Theory' (1987) 48 U PITT L REV < <https://0-heinonline-org.serlib0.essex.ac.uk/HOL/Page?handle=hein.journals/upitt48&id=1075&collection=journals&index=> > [accessed 10 August 2019] 1045-1048.

⁴¹ Ibid 1045.

⁴² Ibid.

⁴³ Ibid 1045-1046.

⁴⁴ Ibid 1047.

⁴⁵ Ibid.

⁴⁶ Ibid 1050.

alike⁴⁷. Since the community was created by men, the men perspective of things seems to be limited when it fails to comprehend the female perspective⁴⁸. The fact that men and women are not same, it does not mean that they are unequal, as Littleton argues⁴⁹. Nevertheless, women have managed to acquire male jobs because of the equality, which has nothing to do with their biological side but with their abilities⁵⁰. At this point, if they act like 'women' they get fired which means that a woman cannot ask for maternity leave, for instance.⁵¹.

Secondly, society should accept the existence of equality and start rebuilding the system according to feminist theories⁵². A good example is the idea of organizing the workplaces from the beginning in order to give women opportunities to correspond to the jobs' requirements⁵³. In some workplaces, women are not hired because there is a common belief that they might become parents which will cost parental leave and it will affect the companies⁵⁴. Feminist theories support that this is an environment that women were born and they did not have the chance to choose which leads us to the argument that women cannot survive with men's based conditions⁵⁵. It is apparent that law has to change in order to protect women's rights and involve all the fields of women's lives. Law is required to include both sexes in its policies and understand that a system based on male patterns cannot develop only by giving some chances to women rather than changing its roots⁵⁶. The value of a person should always be considered at the workplace in order to achieve equal outcomes⁵⁷. Apart from recognising the different characteristic and making space for women opportunities, a compliance to gender based workplaces should follow if one wants to achieve a mere and absolute equality. It means for example, that when a man is keen to pursuit a job which applies better to women, he should gain less money⁵⁸. Littleton supports that "women and men frequently stand in asymmetrical positions" and "equalizing efforts" is needed⁵⁹.

⁴⁷ Ibid 1051.

⁴⁸ Ibid.

⁴⁹ Ibid 1050.

⁵⁰ Ibid 1051-1052.

⁵¹ Ibid.

⁵² Ibid 1052-1059.

⁵³ Ibid 1052.

⁵⁴ Ibid 1052-1056.

⁵⁵ Ibid 1054-1055.

⁵⁶ Ibid 1056.

⁵⁷ Ibid.

⁵⁸ Ibid 1057.

⁵⁹ Ibid 1058.

After having analysing both law and feminism, a normative gap can be found, which feminist theories are trying to fill. It is urgent to support the human rights-based approach and potentially redefine non-discrimination between two sexes. Examples that have to do with the distinction of working women being used above, is a starting point in order to get deeper and see the current situation of the chances that women have or not in the workplaces.

II. Casual/Formal Work – Allocation of Jobs

In the past, men used to be the ones who would work in order to bring money to their families, while women were staying at home taking care of the children and cooking for their husbands. When women entered the workplace, it was difficult to adjust in the environment, since it was constructed for men⁶⁰. The significance of women's work comparing to men's was not assessed in the same way, men's capacity were more considerable⁶¹. As a result, women had to do a big effort in order to enter the workplace and reform the patterns⁶². Women finally achieved to claim their rights but the workplace should change more and consider them⁶³.

The market is divided into formal and informal work. Formal is the common workplace in which people go to earn money and spent it in their free time⁶⁴. Employees sell their services and employers buy them, money is a kind of reward as Zoe Irving supports⁶⁵. In contrast, informal work can be the household chores such as cooking and cleaning and eventually is operated by women but also seasonal or family work⁶⁶. A main difference between the types of the market is that the informal work does not involve payment since it is believed that housekeeping is woman's responsibility but also non-profitable⁶⁷. Moreover, informal work might not involve contract or general work protection. Feminists have supported that domestic work that women do every day should be paid and highly appreciated by the society equal to the formal work because both are interconnected and

⁶⁰ Zoe Irving, 'Gender at Work' in Diane Richardson and Victoria Robinson (n3) 160-186.

⁶¹ Ibid 160.

⁶² Ibid.

⁶³ Ibid.

⁶⁴ Ibid 161.

⁶⁵ Ibid.

⁶⁶ Ibid.

⁶⁷ Ibid 161-162.

interrelated⁶⁸. Based upon several data, household chores are done mostly by women than men, something that impedes them from having time for any job⁶⁹. Due to the male dominated jobs and the profile that has been created for their abilities, their economic responsibilities to their family and the general protection that they should provide, women have been always assessed basing on the specific pattern⁷⁰. Not only are women been associated with the housework, but also they have jobs outside home which do not require power to act and are mostly male subordinated⁷¹. This might affect women's opportunities to enter the labour market and their economic growth⁷².

It is argued that jobs that have to do with use of power and capabilities performance are related with men whereas jobs that have to do with emotions are more applicable to women⁷³. Additionally, woman's physical presence may be suitable for those jobs because of their situation⁷⁴. Even if we try to see women as a crowd with same qualifications, the existence of women with different domestic grounds makes space for more inequalities, something that could confirm the idea of gendering the jobs⁷⁵. Women have done many efforts to achieve entering the labour market but they still have not managed to do it in "equal terms", because their priority of family care is of high importance⁷⁶. Sometimes they find jobs such as assistants or caretakers because they already are good at it from their nature but also because the market has been soft while men have the managerial positions⁷⁷. This is being reflected to the salary too⁷⁸. It is not said that they are excluded from the powerful positions, but they get promotions in companies with low prestige⁷⁹. The jobs that are excluded from, are the ones that there are stereotypes based on their physical appearance for instance, which one might imply that could affect men's behaviour when both sexes work in the same place⁸⁰. For example, they might not allow a woman to become a captain because they are 'afraid' of men's

⁶⁸ Ibid 163.

⁶⁹ Ibid 175-177.

⁷⁰ Ibid 164.

⁷¹ Ibid.

⁷² Ibid.

⁷³ Ibid 164-165.

⁷⁴ Ibid 165.

⁷⁵ Ibid.

⁷⁶ Sandra Fredman (n17) 45.

⁷⁷ Zoe Irving (n60) 166-167; Sandra Fredman (n17) 45.

⁷⁸ Zoe Irving (n60) 166-167.

⁷⁹ Ibid 167.

⁸⁰ Ibid.

sexual reaction during a long trip rather than asking men to control their urges. This is an obvious sex discrimination⁸¹.

Other issues that arise in the workplace are the unequal payment and the allocation of jobs. Regarding the salaries, reports show that men earn more money than women and the gap between their salaries is rather than small⁸². As far as evidence is concerned, there is no explanation why men's salaries are higher than women's⁸³. Since the gender skills do not affect the remuneration, why women cannot receive same salaries with men when they do same things in the workplace⁸⁴? However, it is supported that in some cases women do inferior things at work than men⁸⁵. The allocation of work is not fair due to the sex flexibility, their work experience and their different grounds⁸⁶. As a result, women's services are not assessed equally with men's⁸⁷. Mostly because employers present their inferior work positions in a way that could make women feel that they can easily have them in parallel with their household chores⁸⁸.

Apart from separating jobs into paid and unpaid, one of the most important difference between genders occupations is the one that has to do with the hours they can work; full-time and part-time⁸⁹. Zoe Irving argues that women's access to part-time jobs is more common than to full-time⁹⁰. In reality, part-time jobs were created in order to ease women's access to employment during the first social movements in order to claim their working rights and enter the labour market⁹¹. Nevertheless, part-time work is not well co-ordinated and the workers' protection is in question sometimes⁹². Feminists support that this type of work is easily accessed by women with low development of knowledge in order to achieve economic efficiency in their lives and untie the financial bond which used to connect them with their husbands⁹³. In contrast, Scandinavian countries give women easy access to employment, they reduce the working hours in order to make women flexible with their family

⁸¹ Ibid.

⁸² Ibid 167-168.

⁸³ Ibid.

⁸⁴ Ibid.

⁸⁵ Ibid 168-169.

⁸⁶ Ibid 168.

⁸⁷ Ibid 169.

⁸⁸ Ibid.

⁸⁹ Ibid 169-170.

⁹⁰ Ibid.

⁹¹ Ibid.

⁹² Ibid.

⁹³ Ibid 170.

responsibilities and the payment is not affected by the working hours⁹⁴. The type of work that a woman can find is also connected with her national background, specific ethnicities are excluded from full-time jobs because of their family affairs which develop earlier than in other ethnicities⁹⁵.

As it is said, sex discrimination in the workplace is unavoidable either because of the workplace structure, the business itself or because of the women's background to work in different terms. On the other hand, it is important to see the other side of the coin. Women are trying to break the ceiling and gain access to employment but there are two points of view showing that workplace is not always a place of distinction but a place that they reject⁹⁶. One says that men are more flexible in different working hours than women⁹⁷. The other one says that women usually choose part-time jobs because they know that the short-term jobs are more suitable for their needs and the time that they can afford⁹⁸. It should be considered the fact that also women can make their own choices about the job that they are going to get, which is not linked with gendering the jobs⁹⁹. As a result, women might choose jobs that make them feel secure regarding their affordable time, their abilities and their family affairs¹⁰⁰.

Considering the informal and formal work as well as the allocation of jobs, it is important to link the law with the types of work. Women's rights in the workplace are mostly protected by CEDAW at some extent, rather than the other conventions that promote the economic, social and political rights. These rights are applied in the domestic law of the states in order to achieve non-discrimination and substantive equality. Moreover, businesses have also their policies which protect women at work, since workplace can be divided into private and public sector too. The problem though arises in informal work. This type of work cannot guarantee women's protection because there are no contracts. This means that women have no rights. Informal sector is not a secure workplace because it does not give women sick pay, holidays pay and extra pay for extra working hours. It might also prove to be difficult in practice since the allocation of jobs can be unfair too. Thus, any kind of discrimination occurred in this workplace is not easy to solve and the violations of rights generally can

⁹⁴ Ibid.

⁹⁵ Ibid.

⁹⁶ Ibid 171.

⁹⁷ Ibid.

⁹⁸ Ibid.

⁹⁹ Ibid 172-173.

¹⁰⁰ Ibid.

happen in high levels, for example sexual harassment. The next chapter will situate the economic and social women's rights that are protected by the conventions and what the states responsibilities are. Is there any interaction between them?

Chapter 2: International Human Rights Law Based Approach

I. ILO Standards

The International Labour Organization (ILO) was created in 1919 in order to protect employees' rights by establishing justice¹⁰¹. The ILO works with employers, workers and countries based on some standards that facilitates trade and aims to the economic development of the global world¹⁰². ILO's plan for 2030 includes seventeen Millennium Development Goals which will ensure to increase the level of life. Among the Goals that were discussed in 2005 in New York, one was Gender Equality¹⁰³. Many reports have shown that gender inequality is a problem around the world and ILO is aiming to eliminate it and stop women from being forced to practices that they do not choose¹⁰⁴.

The treaties of ILO are the aspect of human rights in businesses that exist internationally¹⁰⁵. It is the leader of the trade in the world and it has done attempts to stop gender discrimination in the workplace¹⁰⁶. Although the ILO performance is not powerful, it has its way to press states comply with its provisions¹⁰⁷. Due to its pressure, states have reformed their national policies in order to fulfil their duty to create an equal environment¹⁰⁸. Its treaties apply to both genders and give equal rights¹⁰⁹. Moreover, it ensures women a secure environment to work in without any distinction, which means it gives women a guarantee about the enjoyment of the rights they deserve¹¹⁰. It is supported by Landau and Beigbeder that "there is greater public awareness of the ways in which direct and indirect discrimination manifest themselves, and perhaps more sensitivity and tolerance"¹¹¹.

¹⁰¹ International Labour Organization, United States 1919 < <https://www.ilo.org/global/lang-en/index.htm> > [accessed 31 August 2019].

¹⁰² Ibid.

¹⁰³ Ibid.

¹⁰⁴ Ibid.

¹⁰⁵ Eve C. Landau and Yves Beigbeder, *From ILO Standards to EU Law: The Case of Equality Between Men and Women at Work* (Martinus Nijhoff Publishers 2008) 20.

¹⁰⁶ Ibid.

¹⁰⁷ Ibid.

¹⁰⁸ Ibid.

¹⁰⁹ Ibid.

¹¹⁰ Ibid.

¹¹¹ Ibid 20.

However, women have entered the labour force lately, they do not enjoy their rights in the workplace¹¹². The quality of the environment and the market which is constantly changing is difficult to end up to a cooperation¹¹³. Since equality is a fundamental human right, it should be governments' first concern¹¹⁴.

II. Equal Rights in the Workplace

Article 11 of the CEDAW situates gender equality in the workplace by emphasizing women's right to work explicitly¹¹⁵. The Convention's significance is important because it highlights the ideal principles that a state should adopt in order to protect and promote women's working abilities, namely chances to work, choose their desire profession, have equal salaries with men and get promotions¹¹⁶. This article confirms that women are free to work in an environment which protects them without distinction or stereotypes based on sex¹¹⁷.

First of all, the right to work is considered to be absolute and everyone should enjoy it, according to article 11(1)(a) of CEDAW and also article 6 of ICESCR¹¹⁸. States are obliged to ensure that

¹¹² Ibid.

¹¹³ Ibid.

¹¹⁴ Ibid 21.

¹¹⁵ "States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:(a) The right to work as an inalienable right of all human beings;(b)The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;(c)The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;(d)The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;(e)The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;(f)The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction."

¹¹⁶ Frances Raday, 'Article 11' in Marsha A. Freeman, Christine Chinkin and Beate Rudolf, *The UN Convention on the Elimination of All Forms of Discrimination Against Women: A Commentary* (OUP 2012) 281

¹¹⁷ Ibid.

¹¹⁸ CEDAW (1979) article 11(1)(a); ICESCR (1966) article 6.

women are not discriminated in the workplace and they should “take steps” to stop the issue¹¹⁹. Particularly, General Comment 18 states the importance of exercising the right to work in order to “live in dignity” and ensure their “survival”¹²⁰. Women in many societies are not treated like human beings who deserve to work and determine their own lives¹²¹. Governments deny women access to the employment either because they do not have the same abilities with men or because men should be over them and decide for their wives.

When CEDAW and ICESCR refer to the right to work, they address the full-time employment. Evidence show that women are very educated comparing to men and the labour market loses its chance to maximise the competitiveness with other markets by rejecting women’s applications¹²². In this case, the unemployment is in high levels¹²³. However, in other countries lots of jobs are available to women but they do not apply for them because they are forced to choose jobs with less working hours and less money¹²⁴.

Additionally, ILO is aiming to the Gender Equality which can be succeed by giving women proper and satisfactory work, also opportunities to become managers¹²⁵. ILO’s program underlines the importance of the women’s engagement with the market and the protection of both genders in the workplace¹²⁶. However, there is high rate of unsafe employment globally which means that some governments allow women to work in informal jobs which do not protect them¹²⁷. Particularly, women have short-term jobs, no official agreements and no extra profit¹²⁸. It is worth mentioning the General Recommendation 16 that confirms that many women work without getting paid internationally and this is deemed as “a form of women’s exploitation”¹²⁹. Moreover, regarding General Recommendation 17,

¹¹⁹ ICESCR (1966) article 2(1); CEDAW (1979) article 2(e), (f).

¹²⁰ UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 18: The Right to Work (Art. 6 of the Covenant)*, 6 February 2006, E/C.12/GC/18, available at: <https://www.refworld.org/docid/4415453b4.html> [accessed 31 August 2019].

¹²¹ Freeman, Chinkin and Rudolf (n115) 285-286.

¹²² *Ibid* 287.

¹²³ *Ibid*.

¹²⁴ *Ibid*.

¹²⁵ *Ibid*.

¹²⁶ *Ibid*.

¹²⁷ *Ibid*.

¹²⁸ *Ibid*.

¹²⁹ UN Committee on the Elimination of Discrimination Against Women (CEDAW), *CEDAW General Recommendations Nos. 16, 17 and 18, adopted at the Tenth Session, 1991 (contained in Document A/46/38)*, 1991, A/46/38, available at: <https://www.refworld.org/docid/453882a322.html> [accessed 31 August 2019].

women are taking care of the household chores and their children without earning money and this affects a state's national economy¹³⁰.

According to the CEDAW, women should have same chances to access to the employment with men¹³¹. Frances Raday states that this right should be considered in parallel with the education that women should enjoy¹³². It should entail the suitable educational background that a woman deserves and also the training that a job organizes for its employees¹³³. The structural hierarchy that occurs in the corporations reveals the subordination of women to men¹³⁴. However, employers sometimes advertising their need for male applicants and exclude women in an apparent way¹³⁵. This is regarded as a violation of the right to work, according to which, states should follow the appropriate patterns to stop this violation¹³⁶.

Women have the freedom to decide which job they like to have¹³⁷. According to the CEDAW, they are not forced to choose something they do not like. This is happening in order to stop societies oppressing women to decide with their men's consent or to stop working at all¹³⁸. Article 16(g) of the CEDAW also refers to the freedom of women to choose their job without the permission of their husbands¹³⁹. Moreover, the article 11(1)(c) entails the equality between men and women regarding the conditions and their approach¹⁴⁰. Equal treatment means that women have also the chance of promotion when they acquire the knowledge or the skills¹⁴¹. The ICESCR is protecting also women's right to fair and equal conditions at work in article 7¹⁴². Regarding also the General Comment 23 of

¹³⁰ Freeman, Chinkin and Rudolf (n115) 288.

¹³¹ CEDAW (1979) article 11(1)(b).

¹³² Freeman, Chinkin and Rudolf (n115) 288.

¹³³ Ibid.

¹³⁴ Ibid 289.

¹³⁵ Ibid.

¹³⁶ Ibid.

¹³⁷ CEDAW (1979) article 11(1)(c).

¹³⁸ Freeman, Chinkin and Rudolf (n115) 290.

¹³⁹ CEDAW (1979) article 16(g).

¹⁴⁰ Freeman, Chinkin and Rudolf (n115) 290.

¹⁴¹ Ibid.

¹⁴² ICESCR (1966) article 7.

ICESCR, it defines the “conditions of work” with same protections and requirements with men’s conditions¹⁴³. Here comes also the issue the part-time jobs, which is somehow controversial to the women’s desire to choose their profession and be treated equally¹⁴⁴. The high rates of part-time work might show the states’ deficiency to give women full time jobs and increase the bias that women should be housekeepers¹⁴⁵. For this reason, states have to ensure that women have both part-time and full-time jobs and it is up to them to choose which one they want, since they have the freedom to do so¹⁴⁶. The right to part-time work has also been ensured by ILO Convention in article 1(a) which defines the part-time employee as “an employed person whose normal hours of work are less than those of comparable full-time workers”¹⁴⁷. The article 1(c) refers to the conditions of work which should be equal¹⁴⁸.

It should also be mentioned the issue of the sexual abuse in the workplace as an unsolved issue of high importance¹⁴⁹. It is unfair because its result will can cause change to the victim’s salary, development or general treatment at work¹⁵⁰. Research has shown that sexual abuse is discriminatory outcome of a company’s hierarchy¹⁵¹. Additionally, it is strongly argued that we are not talking about a simple insult but about an assault without the victim’s consent¹⁵².

Article 11(1)(d) of the CEDAW ensures women with equal payment for job of equal value¹⁵³. ILO has also a Convention named Equal Remuneration Convention which is the basis of the ILO¹⁵⁴. According to the Convention, the kind of payment does not matter since women are paid equally

¹⁴³ UN Committee on Economic, Social and Cultural Rights (CESCR), *General comment No. 23 (2016) on the right to just and favourable conditions of work (article 7 of the International Covenant on Economic, Social and Cultural Rights)*, 7 April 2016, E/C.12/GC/23, available at: <https://www.refworld.org/docid/5550a0b14.html> [accessed 31 August 2019].

¹⁴⁴ Freeman, Chinkin and Rudolf (n115) 291.

¹⁴⁵ Ibid.

¹⁴⁶ Ibid.

¹⁴⁷ International Labour Organization (ILO), *Part-Time Work Convention, C175*, 24 June 1994, C175, available at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C175 [accessed 1 September 2019].

¹⁴⁸ ILO, *Part-Time Work Convention (1994)* article 1(c).

¹⁴⁹ Freeman, Chinkin and Rudolf (n115) 290.

¹⁵⁰ Ibid.

¹⁵¹ Ibid.

¹⁵² Ibid 291.

¹⁵³ CEDAW (1979) article 11(1)(d).

¹⁵⁴ Freeman, Chinkin and Rudolf (n115) 292.

when their offer at work is equally valued with those of men¹⁵⁵. Because of the hierarchy in jobs, International Human Rights Law requires states to estimate the value of the work of both genders¹⁵⁶. The ICESCR also protects women's right to equal salary in article 7(a)(i)¹⁵⁷. The General Recommendation 13 says that there must be done lots of things in order to succeed the wage equality¹⁵⁸. The problem that arises here according to ILO is that the work is not easy to be estimated equally and the standards of evaluation should be unbiased¹⁵⁹. Sometimes the wage gap does not have to do with the gender¹⁶⁰. The article 11(1)(d) includes also the equal treatment which is interconnected with the equal wage¹⁶¹.

Regarding the security of women in the workplace, article 11(1)(e) guarantees their right to be affected by social factors and not be able to work for some time¹⁶². Particularly, inactivity due to the unavailability of jobs or the age or a disease and pension time lead people to stay away from their jobs¹⁶³. Businesses and public sectors protect the employees from any social danger with the state's financial contribution¹⁶⁴. Evidence show that women are easily affected by the dangers, for this reason there are high rates of poor women than men¹⁶⁵. It looks like poverty is also a discriminatory outcome all over the world¹⁶⁶. This right is also protected by ICESCR¹⁶⁷. Countries' responsibility entails the protection of women and the elimination of the gender discrimination by taking legislative steps to strengthen the social protection of women¹⁶⁸.

¹⁵⁵ Ibid.

¹⁵⁶ Ibid.

¹⁵⁷ ICESCR (1966) article 7(a)(i) and 7(a)(ii).

¹⁵⁸ UN Committee on the Elimination of Discrimination Against Women (CEDAW), *CEDAW General Recommendation No. 13: Equal remuneration for work of equal value*, 1989, available at: <https://www.refworld.org/docid/52d925754.html> [accessed 31 August 2019].

¹⁵⁹ Freeman, Chinkin and Rudolf (n115) 293.

¹⁶⁰ Ibid.

¹⁶¹ Ibid.

¹⁶² Ibid 294.

¹⁶³ Ibid.

¹⁶⁴ Ibid.

¹⁶⁵ Ibid.

¹⁶⁶ Ibid.

¹⁶⁷ ICESCR (1966) article 7(b).

¹⁶⁸ Freeman, Chinkin and Rudolf (n115) 294.

Considering the retirement, research has shown that females pensions are not equal to males pensions¹⁶⁹. It is one more reason which increases the rate of poverty¹⁷⁰. In fact, there was an idea of giving women higher pensions because of their housekeeping job they do without getting paid, but it has not been established¹⁷¹. Another option was to give to women pensions earlier than men or at least the same earlier age but the International Human Rights Bodies did not approve it¹⁷². Moreover, article 11(1)(e) of the CEDAW and article 7(d) of the ICESCR refer to the annual leave for holidays which should be paid too¹⁷³. It is supported that if there is a combination of the CEDAW and ICESCR, women would enjoy some rest too in the terms of “safe and healthy working conditions”¹⁷⁴.

The CEDAW protects women’s right to work in safe conditions, according to article 11(1)(f)¹⁷⁵. Jobs with low salaries are easy to put women in risk of their lives¹⁷⁶. ILO has banned some specific types of work like working at night or moving heavy things in order to protect them¹⁷⁷. However, this led people to be biased and they automatically denied women access to these environments¹⁷⁸. It turned out to be a discrimination against women since they could have the opportunity to work in these places if they wanted to¹⁷⁹. Frances Raday argues that the gender discrimination in the specific context has not been resolved yet by the Human Rights treaty bodies¹⁸⁰. As it was mentioned above, this right is also protected by ICESCR¹⁸¹.

¹⁶⁹ Ibid 295.

¹⁷⁰ Ibid.

¹⁷¹ Ibid.

¹⁷² Ibid.

¹⁷³ CEDAW (1979) article 11(1)(e); ICESCR (1966) article 7(d).

¹⁷⁴ Freeman, Chinkin and Rudolf (n115) 296; ICESCR (1966) article 7(b).

¹⁷⁵ CEDAW (1979) article 11(1)(f).

¹⁷⁶ Freeman, Chinkin and Rudolf (n115) 296.

¹⁷⁷ Ibid.

¹⁷⁸ Ibid.

¹⁷⁹ Ibid.

¹⁸⁰ Ibid.

¹⁸¹ ICESCR (1966) article 7(b).

Violence at work, according to the Human Rights treaty bodies could harm women's health¹⁸². States should apply legislative measures domestically and create a secure environment for women¹⁸³. Restricting women's access to workplaces of high risk of violence, it increases unemployment and it could be deemed as a human right violation of their free decision to work¹⁸⁴.

III. ICCPR and CEDAW Interactions

The ICCPR is an important treaty of the Human Rights Law¹⁸⁵. It contains a comprehensive analysis of the rights that have to do with social and political life¹⁸⁶. The rights of this convention are based on the human morality, freedom and independence in contrast with ICESCR's rights which are statements in order to make life easier at some further levels¹⁸⁷. The ICCPR obliges states to act and stop the violations of rights in their domestic areas by using legislative measures¹⁸⁸. The ICESCR obligations are again statements to the measures that states should take¹⁸⁹. Moreover, the ICCPR gives rights to all human beings without distinction but ICESCR require people to be active about the human rights they deserve from the time they are born¹⁹⁰. Hence, ICCPR argues the states obligations to conform with the protection of human rights that are included in ICESCR¹⁹¹.

The ICCPR has rights which exclude any kind of discrimination¹⁹². The states have to establish the equality in people's rights and furthermore the absolute protection¹⁹³. For this reason, discrimination against women should not exist. Even if the ICCPR is stronger than ICESCR, the

¹⁸² Freeman, Chinkin and Rudolf (n115) 297-298. Sexual abuse in the workplace is a big issue all over the world. It can affect women's health not only the time that is happening but also in the future. It is said that harassment at work is in high rates, similar to rape sometimes. Allegations from women that have been abused sexually at work say that harassment is an issue which is difficult to stop, especially in countries that women are excluded from the employment and they do everything they can in order to have a proper life living. In terms of this thesis, the issue is not going through further analysis because it is long and complicated.

¹⁸³ Ibid 298.

¹⁸⁴ Ibid.

¹⁸⁵ Brad R. Roth, 'The CEDAW as a Collective Approach to Women's Rights', 24 Mich. J. Int'l L. 187 (2002) 190.

¹⁸⁶ Ibid.

¹⁸⁷ Ibid.

¹⁸⁸ Ibid.

¹⁸⁹ Ibid.

¹⁹⁰ Ibid.

¹⁹¹ Ibid 191.

¹⁹² Ibid.

¹⁹³ Ibid.

extent of the realization of human rights in the domestic level is up to the countries or non-governmental organizations acts not up to the women's situation¹⁹⁴. On the other hand, CEDAW has an optimistic approach of implementing the change between men and women which is upon everyone not specified on individual work¹⁹⁵. Its goal is to change social circumstances and accept the rights women deserve as absolute rights¹⁹⁶.

IV. Domestic Legal Provisions¹⁹⁷

As CEDAW says in article 11(2), states should ensure gender equality in their domestic area by taking "appropriate measures" without referring to the word "all" which most of the treaties entail¹⁹⁸. This might create confusions because it does not include the completeness of the states¹⁹⁹. In other words, when the countries ratify the conventions, they have some duties²⁰⁰. The rights that have to do with social, political and civil life are considered to be negative in the way that none can remove this right from someone²⁰¹. A country's requirement is double, first it should not remove any right from anyone and second it should ensure that its national law protects people from any violation²⁰². According to article 2(1) of ICCPR, countries should promote human rights and guarantee the protection lawfully²⁰³. The Covenants sometimes give more detailed instructions about the national law that states should establish in order to ensure the protection of people's rights²⁰⁴. Additionally, states should also be prepared to handle any violation that has taken place²⁰⁵. Countries are also

¹⁹⁴ Ibid 192.

¹⁹⁵ Ibid.

¹⁹⁶ Ibid.

¹⁹⁷ The Conventions are not an official form of law. They are not legal binding and for this reason they are called soft law. This type of law is the one that is at its early stage of development and establishment and it actually starts from setting guidelines and principles internationally. Moreover, a breach of this law leads to remedies to the victims. Specialists have supported and strengthen the mandate of the conventions among the years. Non-state actors constitute part of the soft law mechanisms. However, it is argued that soft law is not effective because its practices of implementation are inadequate. See Ilias Bantekas and Lutz Oette, *International Human Rights Law and Practice* (2nd edn, CUP 2016) 65-66.

¹⁹⁸ CEDAW (1979) article 2; Freeman, Chinkin and Rudolf (n115) 307.

¹⁹⁹ Freeman, Chinkin and Rudolf (n115) 307.

²⁰⁰ Ilias Bantekas and Lutz Oette, *International Human Rights Law and Practice* (2nd edn, CUP 2016) 79.

²⁰¹ Ibid.

²⁰² Ibid.

²⁰³ Ibid.

²⁰⁴ Ibid.

²⁰⁵ Ibid.

obliged to renew their policies of protection and check regularly their effectiveness, as a positive requirement²⁰⁶.

In case of emergency, governments might violate human rights instead of ask help from other states²⁰⁷. This is sometimes justified by the international human rights system²⁰⁸. In contrast, there are rights that are strictly protected by the treaties in any case and are called non-derogable²⁰⁹. Hence, the abuse of those rights is followed by a successful resolution²¹⁰. Bantekas argues that “the principle of non-discrimination is largely non-derogable²¹¹. The extent that human rights are protected in a state, it is upon state’s practice²¹². It means that governments are responsible for protecting all human beings living inside their national region and in specific cases the region outside the countries²¹³. “However, treaty bodies and courts have widened the scope of application, largely using the test of ‘effective control’ to determine whether the existing degree of control justifies bringing certain conduct within the jurisdiction of the state concerned”, according to Bantekas²¹⁴.

It is argued that the activities of non-state actors might not be deemed as states responsibilities²¹⁵. Non-state actors operate with their own rules and when they are in charge of the governments, they are still not obliged to follow the states policies²¹⁶. Thus, states seem to break their requirements because they cannot control non-state actors’ activities, “because the acts or omissions by the state enabled the corporation to act as it did”, as Robert McCorquodale supports²¹⁷. For instance, this can happen if the employer fires an employee because he participated in syndicalism at work²¹⁸. As a result, states might fail to fulfil their obligations when they cannot control private persons outside their domestic region²¹⁹.

²⁰⁶ Ibid 80.

²⁰⁷ Ibid.

²⁰⁸ Ibid.

²⁰⁹ Ibid 81.

²¹⁰ Ibid.

²¹¹ Ibid.

²¹² Ibid 82.

²¹³ Ibid.

²¹⁴ Ibid 83.

²¹⁵ Robert McCorquodale, ‘Impact on State Responsibility’ May 24, 2012 in M. Kamminga and M. Scheinin (eds), *The Impact of Human Rights on General International Law* (OUP, 2009) Available at SSRN: <https://ssrn.com/abstract=2065911> 239.

²¹⁶ Ibid.

²¹⁷ Ibid 246.

²¹⁸ Ibid 246-247.

²¹⁹ Ibid.

It is important to consider whether an activity or exclusion is over state and affirm that it was a violation of the law²²⁰. If the states duties change, states should follow it because the international human rights law is created by the governments for the governments which means the states should follow the policy that have created for themselves²²¹.

The states compliance with the treaties provisions has to do with the success or the failure of states to protect human beings from any human rights abuse²²². The success is hidden between the international relations and the national activities of states²²³. For instance, the state can adjust a law in its national context according to the states culture, in order to implement the international provision²²⁴. It does not matter the context of the law but the outcome²²⁵. However, the national law might not meet the requirements of the international provisions and principles²²⁶. In this issue, courts might choose to follow the domestic law if the context is more adhesive to the state culture²²⁷.

V. States Accountability for Other Associations

The countries-members of the covenants are in control of peoples or businesses activities in their territory²²⁸. Sometimes countries infringe the law because their organs might do things that are against the International Human Rights Law²²⁹. Firstly, the states are in charge of private actors' actions, particularly when they operate according to the states' authorities²³⁰. According to the Covenants, governments should promote and protect human rights respecting also private actors²³¹. Resolutions of cases in the past confirm the significance of the states' accountability not only to protect people but also prevent any potential abuse in the future been done by entities or private

²²⁰ Ibid 252.

²²¹ Ibid.

²²² Ilias Bantekas and Lutz Oette (n199) 83.

²²³ Ibid 84.

²²⁴ Ibid.

²²⁵ Ibid.

²²⁶ Ibid 85.

²²⁷ Ibid.

²²⁸ Sarah Joseph and Sam Dipnall, 'Scope of Application' in Daniel Moeckli & others(n26) 114.

²²⁹ Ibid.

²³⁰ Ibid.

²³¹ Ibid.

actors²³². For example, if a business forces women to work extra non-paid hours, state is responsible to stop this human right abuse.

Secondly, global associations operate under government's umbrella and they should be controlled by states too²³³. Human rights bodies argue that global associations that are trying to keep harmony and unity domestically are definitely under states command²³⁴. But the countries should be able to check when the associations are working themselves or not²³⁵. They are not in charge of all the associations that are under their territory²³⁶. In order to prevent any violation, countries that sign a new covenant should always consider the previous negotiations²³⁷. Thirdly, countries should not jeopardize people's human rights with their actions and let them unprotected in other states²³⁸. Hence, they are in charge of other countries omissions or actions too²³⁹.

As it seems to be, business omissions could be deemed as states irresponsibility to control its own territorial agents. In this case, there might be tensions between the state and the company. It is argued that this might happen because businesses as private actors are mostly keen on trading than on protecting human rights.

VI. Obedience to Women's Human Rights

There are three ways of enforcing states to follow the treaty law provisions: investigating an issue, planning the policy they need to go through and making a complaint²⁴⁰. All of the steps can be

²³² Ibid 115.

²³³ Ibid 116.

²³⁴ Ibid.

²³⁵ Ibid.

²³⁶ Ibid 118.

²³⁷ Ibid 118-119.

²³⁸ Ibid 119.

²³⁹ Ibid.

²⁴⁰ Fran P. Hosken, 'Toward a Definition of Women's Human Rights' [1981] 3(2) *Human Rights Quarterly* <<https://www.jstor.org/stable/761853>> [accessed 24 August 2019] 1-10.

followed after a state has ratified a convention and in case that a woman has experienced a human right abuse²⁴¹.

First of all, a human right abuse can be presented by the United States to the Conference every year²⁴². The United States are responsible for checking the countries reports which include the situation of the women's rights in every state²⁴³. The reports show in which level women involve in the civil life, what is the overall employment status and if they become national representatives in the legal framework of the state²⁴⁴. The legal protection might be ensured but this does not mean that states always follow the rules²⁴⁵. The reference to the women's position in the society is not long in the country reports but it is significant for investigating the women's situation in different cultures and changing it by adopting other countries' policies²⁴⁶.

Secondly, private actors are working in order to investigate human rights violations among the countries²⁴⁷. When they find an abuse been done in a country, they send their agents to examine the environment, collect evidence and incidents and make reports which they publish them in order to draw the state's attention²⁴⁸. There are human rights associations which work with Amnesty International and women and try to stop human rights violations²⁴⁹. The problem is that these associations are ruled by males and the situation is difficult to change²⁵⁰. There have been campaigns promoted by the television channels that are fighting for human rights realization²⁵¹.

The last step of enforcing states stop human rights violations is the process of making a complaint²⁵². An individual can make a complaint against his state about a violation that he experienced²⁵³. If there is evidence that the state mistreated the human being, the court might force

²⁴¹ Ibid 7.

²⁴² Ibid.

²⁴³ Ibid.

²⁴⁴ Ibid.

²⁴⁵ Ibid.

²⁴⁶ Ibid.

²⁴⁷ Ibid 8.

²⁴⁸ Ibid.

²⁴⁹ Ibid.

²⁵⁰ Ibid.

²⁵¹ Ibid.

²⁵² Ibid.

²⁵³ Ibid 8-9.

the state to comply by changing the national law and also compensate him²⁵⁴. The above steps are methods that apply to the CEDAW in order to prevent future women's violations²⁵⁵.

VII. Reports, Solutions and Diplomacy

Human rights defenders, including Non-Governmental Organizations, spread reports publicly that have to do with human rights abuses and examine the legal framework that constitute the countries²⁵⁶. The reports from United States can be powerful²⁵⁷. The reports constitute a mechanism which aims to store information about the level of violations globally²⁵⁸. The results that are gained by the reports can lead the agents to force states take measures such as improving their policies and stop future abuses, they work proactively²⁵⁹. The reports might also follow legal examination in order to prove the violation and explore other universal abuses²⁶⁰. Additionally, the human rights defenders are visiting the countries to gather elements and confirm the crimes²⁶¹. Statements should be supported by proof in order to be deemed as accurate and authentic²⁶². Then the report is ready to publish²⁶³.

Reports hide an action plan which is supported also by the media and it has to be analysed before proved valid²⁶⁴. Nevertheless, the outcome of the reports can be controversial²⁶⁵. There might not be proof of guilt against the violator which means that the report will be rejected for its unreliability²⁶⁶. If the report is rejected by the court, the violations might go on occurring and also

²⁵⁴ Ibid 9.

²⁵⁵ Ibid.

²⁵⁶ Ilias Bantekas and Lutz Oette (n199) 138.

²⁵⁷ Ibid.

²⁵⁸ Ibid.

²⁵⁹ Ibid.

²⁶⁰ Ibid.

²⁶¹ Ibid 139.

²⁶² Ibid.

²⁶³ Ibid.

²⁶⁴ Ibid.

²⁶⁵ Ibid.

²⁶⁶ Ibid.

covered²⁶⁷. Hence, it is important to scrutinize the reports and find more evidence to support the validity²⁶⁸.

A process that helps to combat the human rights abuses by the states, is the monitoring technique²⁶⁹. It is a plan that requires teamwork and long time in order to prevent violations²⁷⁰. The elements that are going to be gathered are many and they can give an accurate situation of states domestically and also globally²⁷¹. The measures that have been taken for past violations work as a quick alert to any new violations that might happen²⁷². However, states do not always accept the monitoring process²⁷³. They either decline the external visits that are going to examine the situation, bully the agents or not let them get inside the country²⁷⁴. If the state makes the human rights agents reveal things about the monitoring process, they might lose the chance to continue their mission²⁷⁵.

Human rights defenders are responsible for discussing about an act that should be established in order to support the advancement of human rights²⁷⁶. The diplomats are many and they work both national and international in order to ask pressure to the states and make them take seriously the significance of human rights²⁷⁷. The work of diplomats is not long, in contrast they are arguing for immediate acts²⁷⁸. In particular, they require changing of the system, composition of norms and patterns and creation of successful associations²⁷⁹. For example, Ilias Bantekas refers to a campaign about women's rights which successfully achieved to create associations in Africa in order to help women find justice if their rights are violated²⁸⁰. The campaigns can affect national and international human rights system and reform both if need be²⁸¹. In case that the national law should be reformed,

²⁶⁷ Ibid 140.

²⁶⁸ Ibid.

²⁶⁹ Ibid.

²⁷⁰ Ibid.

²⁷¹ Ibid.

²⁷² Ibid 141.

²⁷³ Ibid.

²⁷⁴ Ibid 141-142.

²⁷⁵ Ibid 142.

²⁷⁶ Ibid.

²⁷⁷ Ibid.

²⁷⁸ Ibid.

²⁷⁹ Ibid.

²⁸⁰ Ibid 142.

²⁸¹ Ibid 143.

the states' conformity has to do with the level of the states' confirmation²⁸². As a result, the defence is based on specific abilities and action and it is always built up on international relations²⁸³. Campaigns can assist diplomats' work because it is their time to present their activities in public and gather more support²⁸⁴.

The ILO provisions follow the UN pattern²⁸⁵. States should send reports every two years for the basic Covenants and every five years for the rest, illustrating the women's situation in the workplace²⁸⁶. Businesses and employees receive copies of those reports and they can also send their statements to the ILO, confirming or not the reports' context²⁸⁷. The ILO's Committees are required to assess the reports and they either reply to the states' questions publicly or they ask more information from the states' authorities in private contact²⁸⁸. The Committees should observe whether the states actions are legal and in practice²⁸⁹. As a result, a state might be asked to do further legal reformation in order to improve its human rights effectiveness²⁹⁰. Workers and business owners are allowed to send their complaints too to the ILO Office when they feel that their rights have been violated by another state²⁹¹.

VIII. Strengthening the Associations

Employees associations are important because they enhance workers' attendance in the society and they support workers to claim the rights they deserve²⁹². When the authorities do not promote workers' rights to the extent they should, trade unions ask pressure to the governments with their

²⁸² Ibid.

²⁸³ Ibid 144.

²⁸⁴ Ibid.

²⁸⁵ Eve C. Landau and Yves Beigbeder (n105) 14.

²⁸⁶ Ibid.

²⁸⁷ Ibid.

²⁸⁸ Ibid 15.

²⁸⁹ Ibid.

²⁹⁰ Ibid.

²⁹¹ Ibid 16.

²⁹² International Labour Conference, *Equal Opportunities and Equal Treatment for Men and Women in Employment*, 71st Session, Report VII (International Labour Office Geneva, 1985) 49.

activities²⁹³. Trade unions work as small societies in which democracy plays important role in the final result of the association²⁹⁴. Even if the female workers have entered the market actively the last decade, women's associations are not strong enough to operate, from state to state²⁹⁵. Research has shown that in Scandinavia women's associations have managed to establish equal salaries for men and women, in contrast with Australia in which the change was slow but stable and effective²⁹⁶. Additionally, in Latin America female associations are not in a high rate comparing to the male ones²⁹⁷. In Asia and Africa, trade unions do not constitute women employees because most of them are not educated²⁹⁸. In South Africa women have done greater attempts to make organizations which are deemed successful. The rate is impressive in Europe, in which women constitute half percent of the trade unions²⁹⁹.

It is significant to consider whether women are allowed to claim their rights and talk about their matters in the societies they live in³⁰⁰. It is argued that women do not participate in associations that much but especially they do not take the initiatives to be the directors yet³⁰¹. It might be reasonable since some women choose part-time jobs in order to have time to handle their family affairs³⁰². Hence, they are not active in unions³⁰³. Even if female employees do their best to promote their interests, society seems to be reluctant to support them³⁰⁴. However, the ILO is responsible for women's associations³⁰⁵. It often communicates with them in order to keep a record of the steps they take for women's interests³⁰⁶. Moreover, the ILO gives guidance and suggestions to the NGO's on how to reinforce action plans and press governments to protect women³⁰⁷.

²⁹³ Ibid.

²⁹⁴ Ibid.

²⁹⁵ Ibid.

²⁹⁶ Ibid 49-50.

²⁹⁷ Ibid 50.

²⁹⁸ Ibid.

²⁹⁹ Ibid 50-51.

³⁰⁰ Ibid 51.

³⁰¹ Ibid.

³⁰² Ibid.

³⁰³ Ibid.

³⁰⁴ Ibid.

³⁰⁵ Ibid 96.

³⁰⁶ Ibid.

³⁰⁷ Ibid.

Chapter 3: Feminism in the workplace

I. Perspectives of Feminism

There are five different feminist theories which see the law and the discrimination in the workplace from different perspectives: liberal feminism, cultural feminism, radical feminism, post-modern feminism and third world feminisms.

Liberal feminism is a concept that supports the law and its fair side³⁰⁸. They aim to change parts of it such as the ones that behave to women as males in the society³⁰⁹. They want to diminish the inequality of behaviour and give women chances like access to the employment, national representation in the political affairs and education³¹⁰. Liberal feminism is not fighting for a special protection of women but for an objective law between men and women³¹¹. Cultural feminism focuses on the characteristics that women possess because of their identity³¹². It argues that the law is promoting the male superiority and men's leadership³¹³. The law reflects only male characteristics such as logic and not female ones which might be the sentiments³¹⁴. Women's offer in the society should be considered equally with men's offer³¹⁵.

Radical feminism finds the women's discrimination the result of male subordination³¹⁶. Women can claim a better position in the society if they are similar to men or if they do not have anything same³¹⁷. According to this concept, societies are based on a structure that is defined by the gender and feminism is fighting for an equivalent management of both sexes³¹⁸. Any discrimination that exists either in social or in personal life is made in order to support lawfully the male sovereignty³¹⁹. Post-

³⁰⁸ Hilary Charlesworth and Christine Chinkin (n1) 38-39.

³⁰⁹ Ibid 39.

³¹⁰ Ibid.

³¹¹ Ibid.

³¹² Ibid 40.

³¹³ Ibid.

³¹⁴ Ibid 41.

³¹⁵ Ibid 42.

³¹⁶ Ibid.

³¹⁷ Ibid.

³¹⁸ Ibid 43.

³¹⁹ Ibid 44.

modern feminism is analyzing the way law is mistreating women³²⁰. It argues that we should consider both sides when an incident occurs and check the way that law is being presented³²¹. It does not accept only the one side of the law which is the distinction, but it supports that the law seems to preserve the inequality because we are talking about official documents³²².

Third world feminism is created by women from South with different race who are fighting for their rights in their own countries³²³. Women are connected with fighting for the domestic affairs, governments and technology have an effect on women, without keeping their culture alive³²⁴. Particularly, they want to improve women's life domestically and then draw the international attention regarding the inequality³²⁵.

II. Differentiation or Distinction

Feminists strongly support that women should have same opportunities in the workplace regarding the formal and informal jobs and the allocation of jobs but states focus on men primarily. Based on Catharine's MacKinnon argument, there is no equality between the genders because states do not behave women in the same way that behave men, implying that women in many societies are dominated by men³²⁶. From one point of view, it is argued that genders are different because genetically and externally are not the same and this creates itself a differentiation³²⁷. People assume that women need a special treatment and they make stereotypes³²⁸. Then the law comes to confirm this distinction which actually leads to the gender discrimination³²⁹. However, it is important to clarify that we are talking about a difference not a distinction³³⁰. The second opinion says that sex is connected with the power³³¹. Particularly, power gives or declines women the opportunity to do a

³²⁰ Ibid.

³²¹ Ibid 44-45.

³²² Ibid 45.

³²³ Ibid 46.

³²⁴ Ibid.

³²⁵ Ibid 46-47.

³²⁶ Catharine A. MacKinnon, *Toward a Feminist Theory of the State* (Harvard University Press 1989) 215.

³²⁷ Ibid 218.

³²⁸ Ibid.

³²⁹ Ibid.

³³⁰ Ibid.

³³¹ Ibid.

specific job or not. As a result, sex and power are tied in the society and this makes equality difficult to occur³³².

The fact that women claim their “sameness” in this world and at the same time support their difference from men is a contradictory issue³³³. Since societies assess women’s abilities by using men as a reference point, the pattern itself implies the gender distinction³³⁴. The idea of stopping gender discrimination and give women the opportunities that they do not have now or stop giving them only the ones that you should have because of their sex is not states primary plan³³⁵. Moreover, men already have some kind of privileges that women already possess from the moment they exist³³⁶. More specifically, it is proved that if there is need of stopping gender discrimination, women should gain the rights that men possess anyway but also some of women’s rights³³⁷. Nevertheless, women have not achieved yet to gain the rights that men have, for example the right to equal remuneration, their access to the formal employment or managerial positions³³⁸. Feminists argue that if the law protects women’s rights in a more accurate and specific way based on their needs, it does not mean that it treats them as unique human beings, it only gives them what they deserve³³⁹.

It is impossible to accept that men and women are completely the same according to feminist theory³⁴⁰. When one actually talks about gender, he refers to the position that women have in the social life³⁴¹. Catharine MacKinnon argues that “hierarchy of power produces real as well as fantasied differences, differences that are also inequalities”³⁴². She supports that women who have created a strong career putting discrimination aside are the ones that have tried to uphold men’s standards, because society is keen on evaluating women by comparing them with men³⁴³. Those women feel that the gift for their success is the position they have gained in the society³⁴⁴. In contrast, if they do not manage to ‘be like men’ they risk living in unfavourable position³⁴⁵. Under these circumstances,

³³² Ibid 219.

³³³ Ibid 220.

³³⁴ Ibid 221.

³³⁵ Ibid.

³³⁶ Ibid 221-222.

³³⁷ Ibid 222.

³³⁸ Ibid.

³³⁹ Ibid.

³⁴⁰ Ibid 224.

³⁴¹ Ibid 224-225.

³⁴² Ibid 225.

³⁴³ Ibid.

³⁴⁴ Ibid 226.

³⁴⁵ Ibid.

women fight for their rights and the equality, which law rejects³⁴⁶. But, the main problem of the law is that its principles are the isolated examples of the humanity³⁴⁷. They are treated like exceptions or like human beings that adopt men's standards³⁴⁸. For the law, this perspective is reasonable since the society is functioning with a unique standard, the male norm³⁴⁹.

Apparently, gender is important in law which means that it gives women specific directions in the society³⁵⁰. It is important though to mention that gender should not be a bad thing, it should not decrease women's opportunities³⁵¹. "Sex in nature is not a bipolarity, it is a continuum; society makes it into a bipolarity", as Mackinnon argues³⁵².

III. Unpaid Work

Household chores is one of the jobs that women do without receiving any payment. As it is mentioned in the first chapter, women used to take care of their children, cook or clean while men were working and bringing the money at home. Housekeeping is not seen as a serious work because it is not a real workplace, an argument which feminists oppose to³⁵³. Particularly, feminists showed up the significance of women at home and counted the money that they deserve³⁵⁴. They strongly supported that the work is so much that if women were doing equal work in a company, they would earn enough money and the work would be profitable³⁵⁵. But the fact that women are not paid for housekeeping, it might give the impression that this type of work is deflated and underrated, which means that women are not supported by the society³⁵⁶.

³⁴⁶ Ibid 227.

³⁴⁷ Ibid 228.

³⁴⁸ Ibid 228-229.

³⁴⁹ Ibid 229.

³⁵⁰ Ibid 233.

³⁵¹ Ibid.

³⁵² Ibid.

³⁵³ Amy S. Wharton, 'Feminism at work' (2000) 571(1) *The Annals of the American Academy of Political and Social Science* <<https://doi.org/10.1177/000271620057100112>> [accessed 26 August 2019] 167-182.

³⁵⁴ Ibid 170.

³⁵⁵ Ibid.

³⁵⁶ Ibid.

Feminists support that the gap between paid work and caregiving work should be considered through the past social views in order to be able to remove the dangers that obscure distinctions³⁵⁷. However, they support that the low levels of women's access to the employment has nothing to do with their family activity at home which lasts long hours but it has to do with the social approval itself³⁵⁸. So, housekeeping is affecting the economy and its growth but also the opposite way can exist³⁵⁹. Women either would refuse to take a job because of their limited available time to work and their inflexibility or the boss would ask for more qualifications³⁶⁰. These two factors should be examined in parallel according to feminists³⁶¹.

IV. Allocation of Jobs/Gendered jobs

It is supported that women are hired in different jobs than men and they also get paid less than them³⁶². The allocation of jobs based on gender is the first issue that feminist have been examining for years³⁶³. One research that has been done showed that different cultural reasons constructed by the society can create the gendered-based division of work³⁶⁴. Another research done by feminists on the issue has more expanded results on the allocation of jobs, particularly it showed that males and females never work at the same position in the same company³⁶⁵. MacKinnon argues that "due to sex inequality, they are seldom permitted to become 'similarly situated' to men³⁶⁶. Moreover, another similar research revealed that when a workplace has more female employees, women have more chances to gain more money despite the gender supremacy in the specific business³⁶⁷.

³⁵⁷ Deborah M. Figart, 'Gender as More Than a Dummy Variable: Feminist Approaches to Discrimination' (2005) 63(3) *Review of Social Economy* <<http://www.jstor.org/stable/29770334>> [accessed 26 August 2019] 509-536.

³⁵⁸ Ibid 524.

³⁵⁹ Ibid.

³⁶⁰ Ibid.

³⁶¹ Ibid.

³⁶² Amy S. Wharton (n352) 172.

³⁶³ Ibid.

³⁶⁴ Ibid.

³⁶⁵ Ibid.

³⁶⁶ Catharine A. Mackinnon (n325) 224.

³⁶⁷ Amy S. Wharton (n352) 172-173.

Because of the hierarchy in the workplace, feminists had the chance to observe males and females reactions in a business³⁶⁸. For instance, they found out that the company's hierarchy and not one's personality can affect the way people behave³⁶⁹. Hence, women being hired in a workplace where men prevail, show more power and willingness to achieve their goals than men that get jobs where women prevail³⁷⁰. Women's dream to gain a better position in the workplace does not come to an end. They try hard in order to reach men's standards which is not always good. It can be competitive between other women and it can also hinder the actual claim of their human rights.

Stereotypes and speculations about who can do what in a workplace is the reason why gendered-based jobs exist, according to feminists³⁷¹. One's environment, personal experience and political view can affect the way he sees the world³⁷². For instance, if an employer assumed that women are not able to do a specific type of work, he would decide to give her another type of work to do. Stereotypes exist in every workplace for both sexes and they affect genders' allocation of jobs³⁷³. In contrast, when women are trying to become managers, some work environments might ask them for characteristics which usually men have, for example 'aggressiveness' because it is argued that those positions require 'maleness'³⁷⁴. A good example could be the customers servants in a restaurant³⁷⁵. Amy Wharton shares Hall's view which says that the "waitress" is linked with girls who work in cafeterias but the "waiter" is connected with high class eating places³⁷⁶.

Regarding Weber's argument about the roles that genders have in a workplace, feminist theory supports that the governmental structure is the reason why jobs are split into male and female³⁷⁷. Particularly, the structural composition might prove a gender discrimination because employees should perform tasks for their managers, which means that people with power have effect over people in lower positions³⁷⁸. While feminism is trying to change genders' activities at work and protect women, some sociologists came up with the idea of reconstructing the hierarchy from the

³⁶⁸ Ibid 174.

³⁶⁹ Ibid.

³⁷⁰ Ibid 174-175.

³⁷¹ Ibid 175-176.

³⁷² Ibid.

³⁷³ Ibid 176.

³⁷⁴ Ibid.

³⁷⁵ Ibid.

³⁷⁶ Ibid.

³⁷⁷ Ibid 176-177.

³⁷⁸ Ibid 177.

beginning³⁷⁹. However, evidence show that the gender at work does not matter and it is not something that affect the hierarchy³⁸⁰.

The concept of “glass ceiling” which refers to the continuous efforts that women make in order to be equal with men, addresses also to the managerial positions that women fail to get because of their gender³⁸¹. Unfortunately, gender plays an important role in the duties that one job has and it might also end up to sexual abuse or racism³⁸². Another argument which preserves the gender inequality in the high positions of the workplace could be the way that people receive rewards for their successful working abilities³⁸³. For instance, when a workplace is consisted by women and men are minorities in it, promotions are not rewarded generously but the opposite thing happens in workplaces that men constitute the majority³⁸⁴. This might affect the salaries of the genders and create another discriminatory level³⁸⁵.

V. Wage Gap

Women's studies have been expanded to the salaries between men and women. They support that this is another discriminatory outcome of the gender inequality in the workplace. Economists have recognised the wage gap between the sexes and they attribute it to the limited qualifications that women acquire comparing to men³⁸⁶. Feminists have supported this view by searching for more reasons of the wage gap, assuming that one of them could be also the hierarchy or the employer's personal desire³⁸⁷. Additionally, women's studies have been expanded to other levels of gender discrimination³⁸⁸. Particularly, they argue that is not only the sex which play an important role to the salary but it is also the nationality and the race of the employee³⁸⁹. The worldwide integration has

³⁷⁹ Ibid.

³⁸⁰ Ibid.

³⁸¹ Ibid 178.

³⁸² Ibid.

³⁸³ Ibid.

³⁸⁴ Ibid.

³⁸⁵ Ibid.

³⁸⁶ Ibid 171.

³⁸⁷ Ibid.

³⁸⁸ Ibid 171-172.

³⁸⁹ Ibid.

affected the workplace in the meaning of making societies biased against specific people and not recruiting them³⁹⁰.

Efforts have been made in order to estimate women's work, compare it with men's work and give women higher salaries in jobs that are female occupied³⁹¹. MacKinnon argues that women usually are recruited in workplaces without men³⁹². As a result, there is no measure to estimate women's operation because there are no men in the place³⁹³. She strongly supports that in jobs occupied by women, men are not willing to gain a position and this can justify the lack of men³⁹⁴. Wharton argues that the assessment of work is used by women's studies "to demonstrate gender bias in wage setting"³⁹⁵. "Certain jobs have become identified as 'women's work', and these jobs pay less because they are feminized and deemed 'unskilled'", as Deborah Figart states³⁹⁶.

VI. Future Change

As it seems to be, gender defines every level of our lives³⁹⁷. It is a characteristic that human beings own, and it determines their social life, their opinions and the way they act when they engage in social groups³⁹⁸. When this characteristic is examined alone without considering other grounds, it cannot present the way the distinctions appear³⁹⁹. Gender has found its way in the workplace wrongly and it produces imbalance and more discriminatory outcomes⁴⁰⁰. Law affects the way people collaborate and it can maintain the discrimination between them⁴⁰¹. Unfortunately, gender is not the reason itself why inequality still exists. Sometimes other grounds of discrimination can maintain the inequality in the workplace⁴⁰². According to Figart, "the distinction between the biological category of

³⁹⁰ Ibid 172.

³⁹¹ Ibid. 171-172.

³⁹² Catharine A. Mackinnon (n325) 223.

³⁹³ Ibid.

³⁹⁴ Ibid.

³⁹⁵ Amy S. Wharton (352) 173.

³⁹⁶ Deborah M. Figart (n356) 512.

³⁹⁷ Amy S. Wharton (n352) 178.

³⁹⁸ Ibid.

³⁹⁹ Ibid 179.

⁴⁰⁰ Ibid.

⁴⁰¹ Ibid.

⁴⁰² Ibid.

sex and the social construction of gender indicates a more dynamic analysis is needed”⁴⁰³. New feminist notions that are growing, show that gender plays an actual role on how the workplace is structured⁴⁰⁴. The main goal though is to decrease the inequality⁴⁰⁵.

VII. Non-Governmental Organizations Reports

Human Rights Watch is an international organization, advocating people’s rights when they have been violated⁴⁰⁶. It is a team consisted by lawyers, diplomats and human rights defenders who work globally to implement justice by observing states’ actions⁴⁰⁷. As a non-governmental organization, it asks pressure to the governments to change their laws when they violate human rights⁴⁰⁸.

According to a report that Human Rights Watch published in 1995, Russian government is discriminating against women in the workplace. Particularly, many women have been unleashed by Russian employers due to their gender⁴⁰⁹. Evidence show that women are unable to claim their rights since the state does not protect them⁴¹⁰. Industries and companies make it clear that they ask to hire male workers, every female application is declined⁴¹¹. In a public interview that took place in 1993, a national representative announced that there are no many jobs available in the country and it is preferable to recruit men rather than women⁴¹². For this reason, he said, women should better do the housekeeping as they are used to, and men be the breadwinners⁴¹³. Unfortunately, Russia signed the non-discrimination law but the national law has not been changed in the way that protects women in the workplace⁴¹⁴. Statistics show that more than sixty percent of Russian women do not have jobs, a

⁴⁰³ Deborah M. Figart (n356) 529.

⁴⁰⁴ Ibid.

⁴⁰⁵ Ibid.

⁴⁰⁶ Human Rights Watch, New York 1978 <<https://www.hrw.org/about-us>> [accessed 25 August 2019].

⁴⁰⁷ Ibid.

⁴⁰⁸ Ibid.

⁴⁰⁹ Human Rights Watch, *Neither Jobs Nor Justice: State Discrimination Against Women in Russia*, 1 March 1995, D705, <<https://www.refworld.org/docid/3ae6a7d80.html>> [accessed 29 August 2019].

⁴¹⁰ Ibid.

⁴¹¹ Ibid.

⁴¹² Ibid.

⁴¹³ Ibid.

⁴¹⁴ Ibid.

number that has not been recorded because authorities have chosen to hide it⁴¹⁵. To women that have jobs are given long last holidays many times in the year without a payment⁴¹⁶. The problem is that all the unemployed women are young in the age of forty-five and they have kids⁴¹⁷. The Russian government insists that women have nothing to give to the market because they do not have the abilities to do so⁴¹⁸.

Another report coming from Iran comes to confirm the gender discrimination in the workplace. First of all, women in Iran do not have the job they like because their husbands do not allow them⁴¹⁹. In some cases, women have to ask for their husband's official permission in order to get a work they want⁴²⁰. However, if a man does not accept his wife's work, he can present his arguments at the court and make her wife leave the job legitimately⁴²¹. When high positions recruitment is taking place, women usually are not even in their list⁴²². Female employees allege that if they want to have a managerial position, they must double prove their abilities⁴²³. Statistics of 2016 show that Iranian men are gaining 6 times more money than men⁴²⁴. Although equal remuneration does not occur in Iran, there are companies that maintain same salaries for both genders⁴²⁵. However, women's allegations say that when bonus and extra working hours come into the foreground, employers are way more generous with men⁴²⁶.

The Ukrainian report is not far away from the data that have already presented in the previous reports. According to Human Rights Watch observations, women are searching for jobs outside Ukraine⁴²⁷. Public and private sector are mistreating women as evidence show⁴²⁸. Particularly, government presents parental duties as an ability that only women hold effectively, in order to make

⁴¹⁵ Ibid.

⁴¹⁶ Ibid.

⁴¹⁷ Ibid.

⁴¹⁸ Ibid.

⁴¹⁹ Human Rights Watch, *"It's a Men's Club" - Discrimination Against Women in Iran's Job Market*, 24 May 2017, <<https://www.refworld.org/docid/592c104e4.html>> [accessed 31 August 2019] 31.

⁴²⁰ Ibid.

⁴²¹ Ibid.

⁴²² Ibid 41.

⁴²³ Ibid.

⁴²⁴ Ibid 43.

⁴²⁵ Ibid 44.

⁴²⁶ Ibid.

⁴²⁷ Human Rights Watch, *Women's Work: Discrimination Against Women in the Ukrainian Labor Force*, 27 August 2003, D1505, <<https://www.refworld.org/docid/3fe4815f5.html>> [accessed 30 August 2019].

⁴²⁸ Ibid.

employers less interested in hiring women⁴²⁹. Low salary is also another outcome of the gender discrimination⁴³⁰. “One fifth of the population is working part-time or registered as employed but officially on forced, unpaid ‘administrative leave’”⁴³¹. The type of jobs that usually have female workers are both jobs of the informal sector and low-paid⁴³².

Is it simply a coincidence or is it a reality that NGO reports are mostly from countries that had been through Soviet Union in the past? The reports can give us a clear view of what is happening worldwide since the teams hiding behind the NGO’s have collected evidence before they publish the statistics that can disarm the countries. Unfortunately, this is the real world but there is still a chance for a change.

VIII. Campaigns and Charities That Fight For Women’s Rights

A Campaign called “All Jobs For All Women” started in 2017 in order to stop the stereotypes that obstruct women’s access to specific jobs⁴³³. The campaign is focusing on Eastern Europe and Central Asia in order to establish gender equality in the workplace⁴³⁴. In particular, it is supported that countries which suffered from Soviet Union, have not changed the authorities and their policies against gender discrimination⁴³⁵. These countries still follow the idea that women should not work and if they work they are conditioned to work in specific jobs which are also low-paid simply because they are women⁴³⁶. The campaign supports that women must have access to good professions and that their external appearance should not obstruct them from taking jobs that they want to⁴³⁷. Allegations of women who achieved to work on the field they wanted say that countries do not support women as

⁴²⁹ Ibid.

⁴³⁰ Ibid.

⁴³¹ Ibid.

⁴³² Ibid.

⁴³³ Anti-discrimination Centre, 'CANCEL LISTS OF TYPES OF JOBS AND PROFESSIONS BANNED TO WOMEN IN ALL EASTERN EUROPEAN AND CENTRAL ASIAN COUNTRIES' *All Jobs For All Women*, (2017) <<https://adcmemorial.org/all-jobs4all-women?lang=en>> [accessed 6 September 2019].

⁴³⁴ Ibid.

⁴³⁵ Ibid.

⁴³⁶ Ibid.

⁴³⁷ Ibid.

they should because the patriarchy is still alive in people's mind⁴³⁸. Evidence published online shows that the campaign has great results until March 2019 regarding the jobs that do not give access to women⁴³⁹. It is worth mentioning that the campaign is surrounded by three pillars: firstly, it has never been professionally proved that specific work environments can harm women's health; secondly, women can consciously choose the profession of their dreams; and thirdly, when governments openly prohibit specific jobs for women, it can be deemed as direct discrimination⁴⁴⁰.

The Global Fund For Women has made several campaigns about women's human rights and gender equality⁴⁴¹. It was created in the United States in 1987, a period that there was need of women's voices in the world⁴⁴². The purpose of the campaigns that organizes is to support women to talk about their matters in public and also help them find both justice and a better life⁴⁴³. It supports the creation of a group which can be led by feminist theories and power⁴⁴⁴. One campaign that organizes is the "The Future Is Ours: Young Women Leaders" which focuses in women from South Asia and East Africa and empower them⁴⁴⁵. Particularly, it gives women chances to become leaders of their lives and choose about their future themselves⁴⁴⁶. The campaign is guided by a feminist leader who strongly inspires women to act⁴⁴⁷. Another relevant campaign of the same Women Organization is called "#NoExceptions" and it supports and protects both women and sex non-binding human beings⁴⁴⁸.

An innovative idea took place in 2013 online. Two people started searching in Google what "women should not do" based upon the society⁴⁴⁹. Specifically, after their research they gathered many ideas about things that women should not do, which ended up to the existence of gender

⁴³⁸ Ibid.

⁴³⁹ Ibid.

⁴⁴⁰ Ibid.

⁴⁴¹ Global Fund For Women-Champions for Equality, 'Key Issues' < <https://www.globalfundforwomen.org/key-issues/> > [accessed 9 September 2019].

⁴⁴² Global Fund For Women-Champions for Equality, 'Mission and History' <<https://www.globalfundforwomen.org/about/mission-history/>> [accessed 9 September 2019].

⁴⁴³ Global Fund For Women (n440).

⁴⁴⁴ Ibid.

⁴⁴⁵ Global Fund For Women-Champions for Equality, '*The Future Is Ours: Young Women Leaders*' <<https://www.globalfundforwomen.org/young-women-leaders/>> [accessed 9 September 2019].

⁴⁴⁶ Ibid.

⁴⁴⁷ Ibid.

⁴⁴⁸ Global Fund For Women-Champions for Equality, '#NoExceptions' <https://www.globalfundforwomen.org/no-exceptions/> [accessed 9 September 2019].

⁴⁴⁹ UN Women, *UN Women ad series reveals widespread sexism* by Memac Ogilvy & Mather Dubai (21st October 2013) <<https://www.unwomen.org/en/news/stories/2013/10/women-should-ads>> [accessed 9 September 2019].

inequality⁴⁵⁰. The experiment showed that there are many things that we cannot even think of, which should be done in order to achieve the equality internationally⁴⁵¹. The results, as the pioneers state, were appalling and they decided to make a campaign with showing the stereotypes that exist against women⁴⁵². The campaign found support from many women around the world⁴⁵³. This should lead us think that through internet there are many chances to promote and protect human rights or to make people think consciously about the world and the women's rights.

"ActionAid" is a global charity which works in agricultural areas of Asia, Africa and Latin America and helps with different ways to support women's rights⁴⁵⁴. It raises money for women's education and women's development at work too⁴⁵⁵. It has been proved that women's unemployment raises the national poverty rates internationally. Hence, ActionAid among the programs that work in, it focuses also in women's economic growth and independence in countries that have great rates of poverty and it aims to stop the gender discrimination⁴⁵⁶. The women's power in both public and private life is limited in the areas that ActionAid works⁴⁵⁷. Women receive unequal treatment comparing to men and they cannot find justice and raise their voice, as evidence shows⁴⁵⁸. Money is received by sponsors and marathon runners⁴⁵⁹. ActionAid started in 1972 by a entrepreneur and in its early steps it was based on child support programs⁴⁶⁰.

⁴⁵⁰ Ibid.

⁴⁵¹ Ibid.

⁴⁵² Ibid.

⁴⁵³ Ibid.

⁴⁵⁴ ActionAid International, ' UNDERVALUED, UNDERPAID AND AT RISK' in *Women's Rights*, <<https://actionaid.org/>> [accessed 9 September 2019].

⁴⁵⁵ Ibid.

⁴⁵⁶ Ibid.

⁴⁵⁷ Ibid.

⁴⁵⁸ Ibid.

⁴⁵⁹ Ibid.

⁴⁶⁰ Ibid.

Conclusion:

As far as I am concerned, the adoption of the CEDAW and the drafting of other treaties that have to do with women's interests such as the ILO, have went women's rights into another and better level. The treaties have emphasized that women globally are not in a good position when it has to do with the employment and the allocation of jobs between them and men. In fact, they are deprived of protection and of their uniqueness. They should draw a greater international attention and claim their human rights. Even if the CEDAW is one of the Covenants which has been ratified by the majority of states universally, the fact that it is not legal binding allows states to handle the women's situation domestically in the way that it does not interfere with their political interests and culture. Additionally,

the limited drafting of the articles in the Conventions and the unclear points that have been highlighted above, open the door to the inequality.

It is well-known that the CEDAW Committee is constituted by women who are strong women's rights defenders and lawyers. In contrast, universal law is written by men. In this case, women's aspects for enforcing their rights in universal level seems to be a progressive step and critical in this world. In some countries, women did not have the right to say their opinion and access the workplace because of the stereotypes, some decades ago. Because of the CEDAW, those women now can raise their matters and find support from women of other states. Campaigns have been made in order to give women the chance to be heard and claim the environment and the conditions they deserve at work.

Though the CEDAW's mechanisms are not strong enough as ICCPR and ICESCR, it has pushed countries to report women's issues. Now, women have a universal support if they do not find their justice by their societies. Moreover, non-state actors and trade associations support women with all their powers.

The attention has been drawn to women since feminism started developing too. It is argued that feminism is a bad thing because people do not know the real definition and the real activities of feminists. It was created in a man's world in order to support women's affairs and eliminate the ideology that everything should be measured by men's perspective. It helped women find their justice in the workplace and diminish the stereotype that "women are the caregivers, men are the breadwinners". It has highly supported women to act and claim managerial positions at work too. But feminist theory insists on the creation of a new world of gender equality without bias. Women are equal to men but different. Besides, it has not always to do with women's desire to choose the profession they like, it has also to do with the available choices they have which might lead women to gendered jobs in order to avoid the obstacles.

In conclusion, the weak CEDAW's procedures and the limited drafting are the reasons why experts do not make women's rights realizable. States should understand the significance of controlling their businesses firstly, and secondly, the adoption of a legislation which would not be limited in the domestic culture. However, it is highly supported that the CEDAW and the ILO was a progressive step for women some decades ago and made women aware of their rights.

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