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**Course
on**

Gender Justice and Workplace Security

by

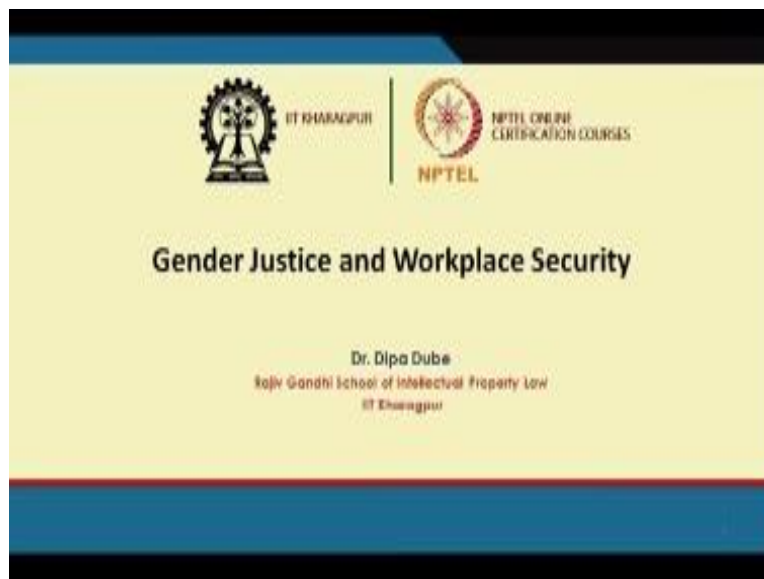
Prof. Dipa Dube

**Rajiv Gandhi School of Intellectual Property Law
IIT Kharagpur**

Lecture 05: International & Constitutional Perspectives

Hello dear students, I welcome you all to the course on gender justice and workplace security.

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Gender justice as we have seen is a concept which tries to address the inequality which exists in society between the men and women. It tries to ensure that there is no discrimination which exists between man and woman or a denial of rights to women on the basis of gender. So in order

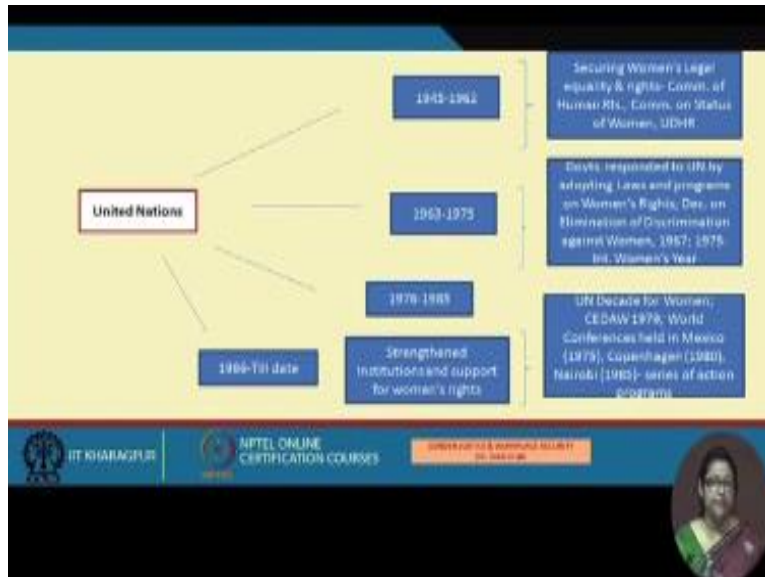
to achieve gender justice it is important that women are made a part of the entire process, state must take necessary endeavor to ensure the rights of women, to ensure her opportunities and resources whereby in terms of education, in terms of employment, in terms of other aspects she is not discriminated against, but she is given her due which she is entitled to. Now in this object of achieving gender justice we need to understand the role of the international institutions.

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And then coming to India the constitutional perspectives, because the understanding which we have of gender justice with regard to the rights of women their entitlements have been much influenced by the International developments which have happened over the years probably since 1945 onwards and they are after coming back to India. The supreme law in terms of the Constitution and the way the Constitution enumerates the rights and duties has gone a long way in the process of achieving this equality.

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Now when we are looking into the International aspect probably we start with the United Nations, the United Nations as a body has had a tremendous role and impact on the notion of gender rights and equality over the years, over the decades it has taken several strides in terms of various declarations, various conventions, various world conferences being held on the issue of women's rights issue of discrimination, issue of violence against women.

And thereby through this process it has tried to impose obligations it has tried to in the first place make state parties to agree on the different aspects, on the different rights which must be ensured within their respective jurisdictions as well as made State Parties responsible to ensure the securing of those rights.

So therefore it has some well mobilized the entire process in sync to it that there is somewhere and understanding our uniform understanding as well as an agreement between the different state parties or amongst or across the state parties to secure the positions of women in society which over the years have deteriorated and needs some push or some extra efforts whereby they can be revived.


Probably DT can be differentiated into certain different in terms of period and in terms of the efforts which the United Nations have made into four different periods 1945 to 1962 where the United Nations emphasized on securing the rights to equality and position of women, the legally trying to emphasize on these aspects with the establishment of the Commission of Human Rights, the Commission on the status of women and the Universal Declaration of Human Rights being prominent amongst them.

During the period 1963 to 75 onwards the different governments, the different states try to respond to this call of the United Nations and in this process they try to frame laws, policies and programs which try to ensure these human rights or this opposition of women and there were different declarations on elimination of discrimination against women are then they are the, there was the International Women's year declared in 1975 extra.

During the period 1976 to 85 there were the very important convention which was passed popularly known as sydow, the Convention on elimination whole forms of discrimination against women. There are various world conferences which were established they all try to read emphasis the concept of women's rights and violence against women and they planned a series of action programs for the different states whereby such rights can be established in the States.

And they are after from 1986 onwards there has been the continued process or the continued efforts which have continued by the different bodies in order to strengthen the position of women through institutional means and through support for women's rights. So therefore the United Nations has played a key role in the process and we will try to in the coming slides we will try to see what has been you know the various types of declarations, conventions what they have tried to establish, what they have tried to the obligations, they have tried to impose on the states. And in this process further the position of women.


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International Developments

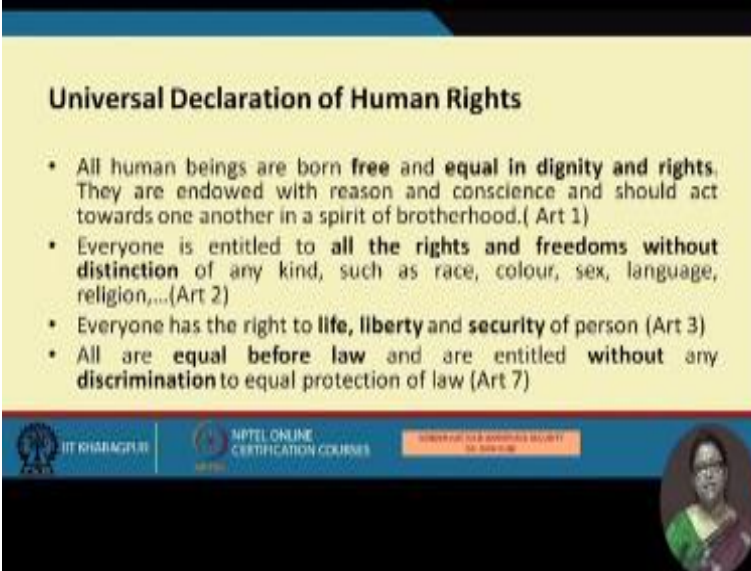
- The Preamble of the UN (1945) begins by reaffirming a "faith in fundamental human rights, in the **dignity and worth** of the **human persons**, in the **equal rights of men and women** and of nations large and small"

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Now to start with the International Development, if we see the preamble of the United Nations 1945 it reaffirms of faith in fundamental human rights, in the dignity and worth of the human person, in the Equal Rights of men and women and of Nations large and small, so that is what the preamble lays down and this development we must say of women's rights has been under the umbrella of human rights, where human rights and fundamental freedoms have been seen as key to the development of women in society and therefore the United Nation affirms that there must be the dignity and worth of human persons and all women and men in society are entitled to equal rights.

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Universal Declaration of Human Rights

- All human beings are born **free** and **equal in dignity and rights**. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. (Art 1)
- Everyone is entitled to **all the rights and freedoms without distinction** of any kind, such as race, colour, sex, language, religion,...(Art 2)
- Everyone has the right to **life, liberty** and **security** of person (Art 3)
- All are **equal before law** and are entitled **without any discrimination** to equal protection of law (Art 7)

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The Universal Declaration of Human Rights 1948 is one of the key instruments in laying down the rights of women the human rights of men and women which cannot be denied to any person. Now these are certain basic rights which are so inherently laid down in the nature, in the human nature of a person that denial of this right somewhere denies the humaneness or the humanity which is there in a person.

So somewhere the Universal Declaration of Human Rights went on to establish and confirm those basic human rights which are important for the very existence of men and women in society. So what it lays down is that all human beings are born free and equal in dignity and rights, they are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

So that is article 1 of the UDHR which says all human beings it does not make any distinction because there does not exist any difference between any groups or categories based on class, caste, sex extra. So all are free, all are equal and they have the same rights they are insured they must be insured the same rights which they can enjoy with dignity and everyone should act

towards one another in a spirit of brotherhood, in a sense that violations of rights extra should not find any place because everyone has a right to live in the society.

Everyone is entitled to all the rights and freedoms without distinction of any kind such as race, color, sex, language, religion so that was article 2 which says that the rights and freedoms cannot be differentiated and such the basis of such differentiation cannot be race, color, sex, language religion. So sex is one of the categories which is mentioned there in, so therefore meaning that just because somebody is a woman, just because somebody is a girl the rights and freedoms cannot be denied to such person based on the sex of that person.

And so is also true with regard to other differences which may be there. Everyone has a right to life, liberty and security of a person which is article 3 of the UDHR. All are equal before the law and are entitled without any discrimination to equal protection of the law, so article 7. So these are some of the key articles which are there of the UDHR which ensures the basic aspects which are important for living in society, living with dignity and with respect in society.

So everyone is equal, everyone has a right to life, everyone has the necessary liberty to express themselves, to express their choices, their freedoms in whatever they do and there must be equality before the law, the law must be same for everybody and there should not be any difference in terms of any race, color, group, caste, class, sex extra with regards to the application of the law and the law should not discriminate amongst people so all are entitled to equal protection of the law.

So if it is a man or it is a woman or if it is some other differentiation between groups of people in terms of language extra the law cannot afford to operate differently to these different categories. So somewhere the Universal Declaration of Human Rights re-emphasized the basic notions of a human rights and the basic notion of Rights which are essential for living in society and living with dignity and respect.

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The slide features a yellow background with two bullet points. The first bullet point discusses the International Covenant on Civil and Political Rights (1966) and the International Covenant on Economic, Social and Cultural Rights (1966), highlighting the equal rights of men and women. The second bullet point discusses the Convention on the Political Rights of Women (1953), detailing women's entitlements to vote, hold public office, and exercise public functions. At the bottom, there is a blue banner with logos for IIT Kharagpur, NPTEL Online Certification Courses, and a contact number for the Centre for UG & B.Tech. Support.

- **International Covenant on Civil and Political Rights, 1966 & International Covenant on Economic, Social and Cultural Rights, 1966-** Equal right of men and women to the enjoyment of civil and political rights as well as enjoyment of economic, social and cultural rights.
- **CONVENTION ON THE POLITICAL RIGHTS OF WOMEN, 1953-** Women shall be entitled to vote in all elections; women also eligible to fight elections; they will be entitled to hold public office and exercise all public functions;

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Following the UDHR there were two other important instruments which were passed and that is the International Covenant on Civil and Political Rights 1966, and then came the International Covenant on economic political and cultural rights of 1966. Both of these again went on to re-emphasize the issue of human rights.

The various rights which all are entitled to specially the equal rights of men and women, to the enjoyment of civil and political rights, enjoyment of economic social and cultural rights as we have said previously earlier in many nations women were not given the right to vote, so that is one of the essential political rights of civil right which is there and which cannot be denied to a woman simply because she belongs to a different sex.

So therefore everyone is entitled to the enjoyment of all political rights and civil rights and the same is true with regard to economic, social and cultural rights. In this regard there was one of the conventions on political rights of women 1953 which specifically women went on to mention that women shall be entitled to vote in all elections, women are also eligible to fight elections they will be entitled to hold public office and exercise all public functions.

Now one thing it may be mentioned that these are most natural and something which must be taken as naturally existing in society, but the fact that these are not made available or these are denied to one group of people makes it necessary to emphatically establish it by way of these rights, these conventions or by way of laws in the entire process. In a sense what is meant is that men and women are equal that their right to life without dignity is not something which means a special mention.

All being human beings living in society are entitled to all that which is important for the peaceful and enjoyable existence of that person in society, so it is but natural that they must have a right life, they must have a right to freedom, they must have a right to exercise choices extra. However the fact that the society denies you know all classes of people or many or certain classes of people these basic rights whereby it requires a specific mention and that is the significance of these international instruments, declarations extra which have gone on to re-emphasize that establish that.

And specifically make it out that it is something which is naturally there and they should be, it should be insured and guaranteed to them and there cannot be nobody can make any difference in that regard, so therefore the 1953 convention went onto specifically hold that you can vote, you can vote in elections you can fight in elections, you can hold public offices which are but only natural that all can be entitled to do so.

But the very fact that women have for long being denied that which makes it necessary that there must be a special mention and the special mention obligating state parties to ensure that necessary changes are brought in the process whereby women are made a part of the entire political process and we are not left out of that.

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DECLARATION ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN 1967

Adopted on November, 1967, it tried to highlight the continued discrimination against women;
Take appropriate measures towards ensuring-

- The right, without discrimination on grounds of marital status ... to any work, to free choice of profession and employment
- The right to equal remuneration
- The right to leave with pay, retirement privileges and provision for security in respect of unemployment, sickness, old age
- The right to receive family allowances on equal terms with men.

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Then came one of the very important declarations which was a declaration on the elimination of discrimination against women in 1967, this was adopted in 1967 and in this declaration there was an effort to highlight the fact that some where discrimination against women was a continued you know was a continuing thing in society and a reality in society and even though efforts were made by the UDHR and ICCPR extra.

Some where women were being discriminated against they were being their rights were being denied at various levels and therefore the declaration tried to draw attention to certain aspects which were continuing in society, certain practices which were continuing in society and thereby take appropriate measures to ensure that those practices, those denial of rights can be effectively addressed.

So appropriate measures towards ensuring the right without discrimination on grounds of marital status to any work, to free choice of profession and employment, the right to equal remuneration, the right to live with pay retirement privileges and provision for security in respect of unemployment, sickness, old age extra, the right to receive family allowances in equal terms

with men, so these were some of the areas apart from many others where the United Nations or the International body wanted to draw the attention of the state bodies.

So it is very important that there must be adequate opportunities for women to take part in the economic process so to pursue professions, to pursue different employment and to ensure that in the process of pursuing a particular profession or in employment in a particular area all are rights in as guaranteed to all other people all are rights benefits privileges must be the same as for any others if not more that is where they try to speak of the equal remuneration where which as we have seen previously.

Even today is not a reality when it comes to India, even though apparently we have the laws we have somewhere policies in place which tries to assure that or ensure that there are no differences in terms of the salary structure, in terms of the benefits privileges you know retirement privileges and other benefits which are made available.

In the basic salary structure itself many times it is seen that women are received much less than their male counterparts, in terms of promotion it is seen that women are less preferred than their male counterparts, in terms of providing responsibilities at the workplace it is says that men are women are less believed than their male counterparts, so therefore the declaration when it says that there must be equality in terms of employment opportunities.

In terms of choice of professions if somewhere hints that there should not be any sort of a discriminatory approach or attitude only part of these states or only part of the different you know employers in with regard to women and when it comes to women versus men in the workplace it must be on the same standards of equality that they must be judged not on the basis of the fact that one is a woman or one is a man.

So similarly family allowances or other allowances which are allowed to women leaves which are allowed to men and women there somewhere should be a sort of a similar treatment which is given out to them. So that was the Declaration on the elimination of discrimination against women 1967.

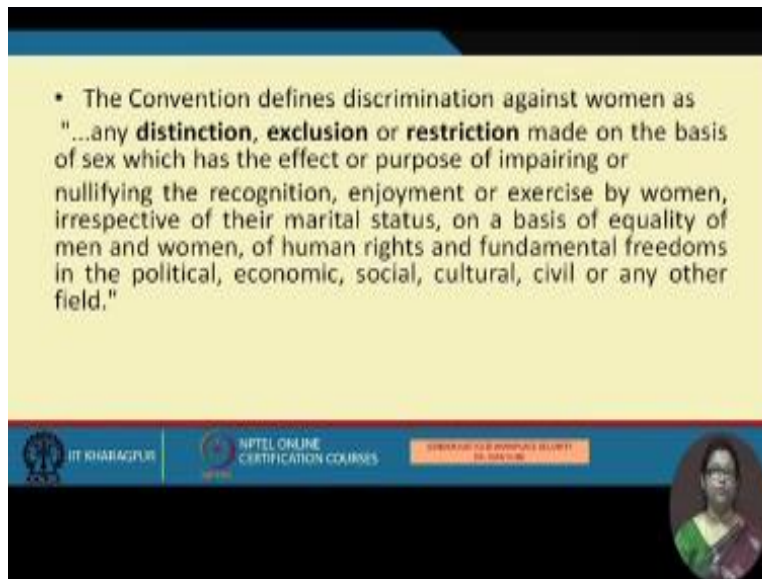
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Now then came in 1979 one of the most important steps with regard to the issue of discrimination against women and that is somewhere seen to be an international bill of rights for women, because it went on to address the various issues at an international level highlight the responsibilities of the state bring in specific obligations of the state parties with regard to the various, responsibilities they were to discharge and that has that made a significant difference or try to re-emphasize the position and rights of women in society and state.

And this was adopted by the United Nations General Assembly in 1979 and the same has been ratified by India in 1993, so India is a part of this Convention on elimination of all forms of discrimination against women which we popularly referred to as the Sydow.

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• The Convention defines discrimination against women as "...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."

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Now Sydow went on to define this concept of discrimination when we say that women are discriminated against what is that which is meant, so the convention went on to specify the concept of discrimination that discrimination refers to distinction, exclusion, restriction which is 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. So when we are speaking of the term discrimination it stands for a sort of a distinction which is made or a sort of exclusion which is made or a restriction which is made between the sexes and that goes into the denial of Rights or impairing the enjoyment of Rights which are which should naturally belong to women or which should naturally be available to men and women and that constitutes our denial of the human rights and fundamental freedoms in one or the other field.

So any sort of a distinction exclusion or restriction based on sex and which tries to effect or which tries to interfere with the recognition of Rights by women, of women is to be understood as the notion of discrimination. So the efforts of the these convention will try to understand what were

the type of obligations which were imposed on the state and there after the other international stripes which have been taken we will try to address in the next lecture.