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A large, light blue watermark logo is centered on the page. It features a stylized emblem at the top consisting of three vertical bars of varying heights, flanked by two curved, wing-like shapes. Below the emblem, the letters 'IJLRA' are written in a bold, sans-serif font.

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The Presence of Misogyny and the Importance of a Feminist Approach in International Law: The Story of Globalization and Feminism

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Abstract

Since the dawn of time, misogyny has been a constant part of society. Even the smallest entity in society, our own house, has been a victim of misogyny. Earlier, women were even not allowed to speak in important matters and even if they did speak up then their opinions were always ignored. Even after becoming a major part of society, they were still viewed as second-class citizens. This gave rise to the movement of feminism. Respect for women and their perspectives in society was advocated by the feminist movements. In a nutshell, they asked that women have the same rights as men. This paper will explore the journey of feminists against the misogynistic world of international law. The first section of this paper will discuss the role of misogyny and its prominent presence in international law. The second section of this paper will discuss the journey of feminism in paving its way in the field of international law. It will also be about the current state of women's rights under international law.

Keywords: Misogyny, Feminism, International Law, Gender Equality

Introduction

Despite significant disparities in the social structure, political, and legal situations of nations all across the world, they still share fundamental patriarchal views and women are still viewed as second-class citizens despite the fact that they are an important part of society. Such behaviour of the society gave rise to the feminist movements. Feminist movements campaigned for respect for women and their ideas in the society. In short, they demanded equal rights for women and men.

In feminism, there are no one schools of thought.¹ Feminists may be distinct in their approaches, but they all strive for the same end goal: gender equality. For example, liberal feminists believe that rather than uprooting the entire system, it is necessary to modify it from within in order to reach their ultimate objective of gender equality but radical feminists, on the other hand, think that the entire system must be uprooted in order to reach the same goal.

Even feminists who are united by their commitment to international law will vary on key political and theoretical perceptions.² Feminist viewpoints have influenced the evolution of international law since the early twentieth century, when women's international peace organisations advocated for the evolution of international law and institutions in the hopes of finding a peaceful solution to international conflicts.³ International law was viewed as a promising area for feminist participation as a method of improving women's lives and ensuring permanent peace all around the globe.⁴

For those who want to use international law to achieve feminist goals, it presents a unique set of opportunities and risks.⁵ Feminist theory offers opportunities for reform by taking into consideration the needs and demands of women and highlighting the gaps in the fundamentally unbalanced character of international law.⁶

¹ Hilary Charlesworth, Christine Chinkin and Shelley Wright, 'Feminist Approaches to International Law' (1991) 85(4) American Journal of International Law 613.

Influence of Misogyny on the Female Prospective of International Law

Legal institutions, domestic as well as international, are no exceptions to the misogynistic behaviour of society. According to a feminist interpretation of international law, we live in a world where males from all around the world have utilised the misogynistic system to construct economic and nationalist goals that favour the male elites while innate human, social, and economic needs remain unfulfilled.⁷ The international legal order is structured in such a way that it expresses a masculine worldview and secures its dominance.⁸

Most feminists are of the opinion that the acts and omissions of the acts by the state is gendered.⁹ According to J. Ann Tickner, international laws have been gendered since the establishment of the modern state.¹⁰ She contends that international relations misconstrue what is essentially male with what is human and states that men's experiences and ideas are mostly responsible for forming the basis for international relations.¹¹ There is no denying the fact that J. Ann Tickner was correct in her observations because a committee comprised entirely of men cannot be expected to comprehend and act on women's concerns and issues such as violence against women, sexual and reproductive rights and health, human trafficking, etc. It's also worth noting that the laws that are drafted and implemented may have a diverse impact on both men and women. Representation of women has always been a topic of concern for feminists. Despite the fact that the effect of global laws and standards on women varies greatly, they are excluded from all the elite positions and important decision-making processes by international legal institutions.¹² In national and international decision-making processes, women seem to be either not represented at all or underrepresented.¹³

² Catherine O'Rourke, 'Feminist Strategy in International Law: Understanding Its Legal, Normative and Political Dimensions' (2017) 28(4) *European Journal of International Law* 1019.

³ Dianne Otto, 'Feminist Approaches to International Law' (obo, 23 March 2012) <www.oxfordbibliographies.com/view/document/obo-9780199796953/obo-9780199796953-0055.xml> accessed 10 November 2021.

⁴ Dianne Otto (n 3).

⁵ Catherine O'Rourke (n 2).

⁶ Hilary Charlesworth, Christine Chinkin and Shelley Wright (n 1).

⁷ Hilary Charlesworth, Christine Chinkin and Shelley Wright (n 1).

⁸ Hilary Charlesworth, Christine Chinkin and Shelley Wright (n 1).

⁹ Rachel Saloom, 'A Feminist Inquiry into International Law and International Relations' (2006) 12 *Roger Williams University Law Review* 159 cites J Ann Tickner, *Gender in International Relations: Feminist Perspectives on Achieving Global Security* (Columbia University Press 1992).

Even if women are somehow able to enter these international institutions and represent themselves, their voices are never heard or taken into account. Women's experiences are ignored and dismissed as trivial, and they are nevertheless required to adhere to the treaties and regulations enacted by exclusively male committees. As stated by Hilary Charlesworth, Christine Chinkin and Shelley Wright in *Feminist Approaches to International Law*, "International legal structures and principles masquerade as "human"-universally applicable sets of standards. They are more accurately described as international men's law."¹⁴

Since there is a lack of representation of women in international legal institutions it leads to their voices not being heard and there being no redressal of their grievances. Hence, it can be concluded that both organizational and normative structures of international law are interconnected, and both are equally flawed.

Position Of Women In International Law- Then Vs Now

Initially, it had become evident that the law was generally immune to feminist concerns, with women's issues being ignored by specialised organisations and tools, and women still being recognised as protected subjects of the law rather than full-fledged legal subjects.¹⁵ However, the feminists' cries were finally heard, and certain modifications in international law were made gradually.

1975 was declared to be the International Women's Year and it had a far-reaching global impact, and was followed by the United Nations Decade for Women.¹⁶ The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) was adopted by the United Nations in 1979, and it includes the principles of women's rights and gender equality in the norms of international law.¹⁷ The mere fact that this Convention was required, however, revealed that women and men do not have equal access to widely recognised human rights.¹⁸ If they were, there would not have been a need for such a convention for the abolition of gender discrimination.¹⁹

¹⁰ Rachel Saloom, 'A Feminist Inquiry into International Law and International Relations' (2006) 12 Roger Williams University Law Review 159.

¹¹ Rachel Saloom cites J Ann Tickner (n 9).

¹² Hilary Charlesworth, Christine Chinkin and Shelley Wright (n 1).

¹³ Sylvie Fogiel-Bijaoui, 'The Cosmopolitan Future: A Feminist Approach' (2016) 5(3) *Laws* 34.

¹⁴ Hilary Charlesworth, Christine Chinkin and Shelley Wright (n 1).

However, from the mid-1980s, this progress became more stagnant, and despite the adoption of some excellent initiatives, the results were not seen in reality. Article 8 of the UN Charter, for example, stipulates that “The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs.”²⁰ But because it was voluntary rather than mandatory, women were still unable to represent themselves once it was enacted. The change that women hoped for as a result of this enactment never materialised, and it remained a dream.

At the 1993 World Conference on Human Rights in Vienna, a watershed moment occurred when women's rights were ultimately clearly recognised as human rights.²¹ Furthermore, the Beijing Platform for Action, issued at the Fourth World Conference on Women in 1995, identified ‘the elimination of all forms of violence against women’ as an important goal to be achieved, which was a tremendous stride forward.²² Despite the lack of a Convention on the elimination of all forms of violence against women, the UN finally at least recognises violence against women as a security, human rights, and war crimes issue.²³ The UN Security Council has since then issued a variety of resolutions on sexual violence, that demand criminal punishment for sexual violence at both the domestic and international levels.²⁴ Human rights legislation has also offered as a platform for enforcing domestic restrictions on violence against women, thanks to the abolition of the public/private divide that plagued feminism's early interaction with international law.²⁵ A landmark resolution by the UN Security Council was the resolution 1325 on women and peace and security. The resolution addressed the disproportionate and distinctive effect of armed conflict on women and girls. It emphasises the significance of women 's equal and active participation in all attempts for the promotion and maintenance of peace and security, including humanitarian response, conflict resolution, peacebuilding, peace negotiations, peacekeeping, and post-conflict reconstruction.²⁶

¹⁵ Dianne Otto (n 3).

¹⁶ Francisca de Haan, ‘A Brief Survey of Women's Rights | United Nations’ (United Nations) <www.un.org/en/chronicle/article/brief-survey-womens-rights> accessed 18 November 2021.

¹⁷ Francisca de Haan, ‘A Brief Survey of Women's Rights | United Nations’ (United Nations) <www.un.org/en/chronicle/article/brief-survey-womens-rights> accessed 18 November 2021 cites Hilikka Pietilä and Jeanne Vickers, *Making Women Matter: The Role of the United Nations* (3rd edn, Zed Books 1996).

¹⁸ Francisca de Haan, ‘A Brief Survey of Women's Rights | United Nations’ (United Nations) <www.un.org/en/chronicle/article/brief-survey-womens-rights> accessed 18 November 2021 cites Hilikka Pietilä, *The Unfinished Story of Women and the United Nations* (United Nations 2007).

¹⁹ Francisca de Haan cites Hilikka Pietilä (n 18).

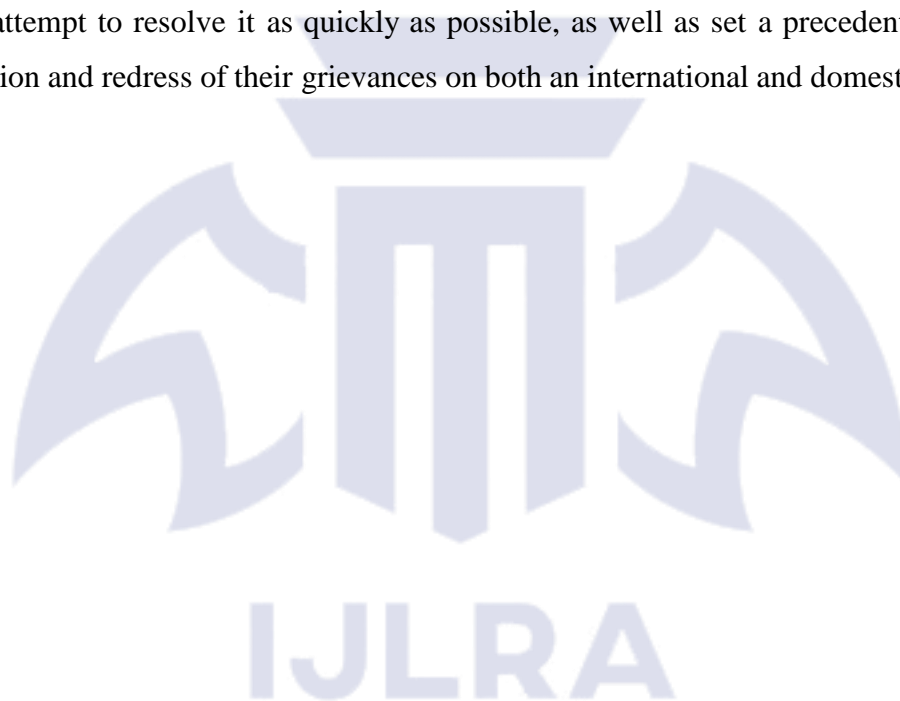
²⁰ United Nations Charter, art. 8

²¹ Francisca de Haan (n 16).

²² Karen Engle, Vasuki Nesiah and Dianne Otto, ‘Feminist Approaches to International Law’ [2021] U of Texas Law, Public Law Research Paper No. 716 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=382077> accessed 20 November 2021.

The normative structure of international law is still progressing more rapidly as compared to the organizational structure. The representation of women in 76 years of International Court of Justice is just 3.7 percent.²⁷ Presently, only three out of fifteen judges of the International Court of Justice are women, along with the court's president, Joan E. Donoghue.²⁸ It's long overdue for UN member nations that elect judges to be appointed in the International Court of Justice to rectify this gender imbalance.²⁹ Women's underrepresentation on the UN's main judicial body, even in the twenty-first century, jeopardises the UN's overall legitimacy and casts doubt on the UN's major legal judgements.³⁰

Regardless of the fact that feminists have won substantial victories in the field of international law, the process is advancing at a snail's pace. The UN should devote more attention to this issue and attempt to resolve it as quickly as possible, as well as set a precedent for women's representation and redress of their grievances on both an international and domestic level.



²³ Karen Engle, Vasuki Nesiiah and Dianne Otto (n 22).

²⁴ Karen Engle, Vasuki Nesiiah and Dianne Otto, 'Feminist Approaches to International Law' [2021] U of Texas Law, Public Law Research Paper No. 716 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=382077> accessed 20 November 2021 cites Karen Engle, *The Grip of Sexual Violence in Conflict: Feminist Interventions in International Law* (Stanford University Press 2020).

²⁵ Karen Engle, Vasuki Nesiiah and Dianne Otto (n 22).

²⁶ 'UN Security Council resolution 1325 on women and peace and security (2000)' (UN Women, 2000) <www.unwomen.org/en/docs/2000/10/un-security-council-resolution-1325> accessed 21 November 2021.

²⁷ Heather Barr, 'The International Court of Justice Should Have More Women Judges' (Human Rights Watch, 28 October 2021) <www.hrw.org/news/2021/10/28/international-court-justice-should-have-more-women-judges> accessed 21 November 2021.

²⁸ Heather Barr (n 27).

²⁹ Heather Barr (n 27).

³⁰ Heather Barr (n 27).

Conclusion

Feminism is dedicated to the fight for gender equality and to the goal of women being recognised as more than just second-class citizens. The feminist viewpoint has significant implications, not only because political and military organisations are patriarchal and hierarchical, and have always excluded women from participation, but also because the political and financial assets of international politics can only be managed by society collectively.³¹

Feminist approaches to international law have always been comprehensive, leading to dynamic interactions with the law and its people, in addition to spirited internal critique and self-reflection.³² Feminist thinking currently includes a moral perspective and manifests itself as an anti-militaristic, holistic, and life-affirming concept.³³

Globalization has increased the awareness of feminist ideology and have reconstituted a new social, political and economic framework of international law. Feminist encounters with international law have spawned a wide and diverse literature that spans every area of the field, marked by both optimism and desperation, by inventive campaigning and developing critique.³⁴ While there has been improvement in specialist international law regimes, there has been very little change in the structure, substance, and basis of international law.³⁵ Feminism is still to be fully integrated into the general concept of international law.

In 1985, it was predicted that “at the present rate of change it will take almost four more decades (until 2021) to reach equality (i.e.: 50% of professional jobs held by women)”.³⁶ However, as we can see, this forecast was well off the mark. Although there has been some development since the 1980s, there is still a long way to go. The underlying question here seems to be: Is the institution of misogyny and patriarchy so important that it's worth jeopardising the interests of half the world's population

³¹ Eleonora Mirabela Tufan, 'Feminism in International Relations' (2011) 2011 Annals Constantin Brancusi U Targu Jiu, Letters & Soc Sci Series 131.

³² Dianne Otto (n 3).

³³ Anthony Emina Kemi, 'Misogyny in Western Philosophy and the Importance of Globalization of Feminism' (2020) 12 Cogito: Multidisciplinary Res J 43.

³⁴ Dianne Otto (n 3).

³⁵ Christine Chinkin in Global Justice Center, 'No Systemic Change Without Legal Change: Feminist Engagements with International Law' (21 May 2021) <www.youtube.com/watch?v=9XtyS67fHJk> accessed 22 November 2021.

³⁶ Hilary Charlesworth, Christine Chinkin and Shelley Wright (n 1).

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17. United Nations Charter, No Article 8

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