

Chapter 4

Women's Rights in the Cyber Space and the Related Duties

CHAPTER OVERVIEW

Rights of women in cyber space are as important as rights of women in physical space. In this chapter, both rights of women in cyber space and their related duties are placed with equal emphasis. Role of conventions, which support the rights of women in cyber space, their successes, their failures in the execution in cyberspace, are discussed. The importance of CEDAW and its execution in cyber space is strongly emphasized. Laws and constitutions of countries like USA, Canada and India are also analyzed. Various duties of women in cyber space is newly created and examined in-depth with a discussion.

4.1. INTRODUCTION

Crimes are the results of violations of rights of any kind. Cyber space is no exception to this rule. It is true that cyber space has no physical boundaries and as such, no strict rule / regulation belonging to any particular geographic region can regulate cyber space as a whole (Lessig, 1999). But at the same time, the essence of basic rights which have been embedded in various Charters on Human Rights, Conventions for protection of women's rights etc and which have been universally followed by many civilized, democratic countries to formulate domestic fundamental freedoms for citizens, suggest that basic fundamental rights of human beings, such as freedom of speech and expression, right to privacy, right to live a safe life etc, prevail universally both in the physical space as well as in the virtual space. But the big difference between the rights prevailing in the physical space and those prevailing in the

DOI: 10.4018/978-1-60960-830-9.ch004

virtual space lies in the modes of legal recognition of the same and acknowledgement of the violation of these rights. The issues of women's rights in the cyber space could be contributed largely to the sluggish modes of the governments in executing the gender equality and gender justice promises made by the States in the form of fundamental rights.

4.2 ROLE OF CONVENTIONS FOR ESTABLISHING WOMEN'S RIGHTS IN THE CYBER SPACE

Even though the International Covenant on Civil and Political Rights in Article 17 (1) states that "No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honor and reputation;" and Council of Europe convention for cyber crimes (2001) does protect human rights to a certain extent, we observe that there are no universal codes for specifically protecting women's rights in the cyber space. Most of the cyber crimes against women happen due to lack of recognition of women's rights and zero or less laws to protect women's interest in the cyber space. In this context, a mention must be made of "Convention on the Elimination of All Forms of Discrimination against Women", 1979. The primary aim of this convention was to eradicate discriminations against women and establish equality for women in the society.¹

Article 2 of the Convention mentions that:

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake: (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle; (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women; (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination; (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation; (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise; (f) To take all appropriate measures, including legislation, to modify or abolish existing laws regulations, customs and practices which constitute discrimination against women; (g) To repeal all national penal provisions which constitute discrimination against women.²

This particular provision could be considered as the soul of the anti discriminatory provision in Article 1 of the convention. The convention opens with firm notes on defining what 'discrimination against women' shall mean in Article 1. To quote Article 1;

For the purposes of the present Convention, 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.³

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