

ESSENCE OF WOMEN'S RIGHTS

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Research Question: Within the contemporary society it is more and more common to use the notion of “women’s rights”. However the notion lacks a clear legal meaning and it seems uncertain what is the precise definition of this notion and what particular entitlements are connected to it. Moreover, it is dubious whether women’s rights comprise of parallel legal normative constructions to men’s rights or whether they are in their essence specific right.

Purpose: Thus the fundamental aim of research was analyze the relevant provisions of public international law of human rights in the search of women’s rights definition. In case of no uniform legal definition, the goal was to reconstruct the meaning of the notion, taking into account the relevant provisions of the Universal Declaration of Human Rights, International Covenants of Human Rights, Convention on the Elimination of All Forms of Discrimination Against Women and regional European human rights treaties.

Method: The proposed research was primarily based upon the normative analytical method.

Results: The result of research proved that the notion of womens’ rights remains undefined in a direct manner in public international law. Hence it seems possible to reconstruct this notion and thus to arrive with an indirect definition of the notion. The process may be performed in a two-fold manner. Firstly, it is possible to address the notion of womens’ rights alongside the notion of men’s rights, within the overall perspective of the principle of equality (definition *sensu largo*). This broad understanding of women’s rights pinpoint to the neutrality of human rights provisions, comprising of entitlements, addressed to men and women alike. Secondly, it is possible to distinguish an “essence of women’s rights”, provisions addressed solely to women, and thus providing a precise legal definition (*sensu stricto*). Within the latter perspective the original character of women’s rights is inherently connected to maternity. In seems relevant to stress that women’s rights are not connected at all to abortion, within human rights provisions.

Organization: As maternity should be regarded a crucial aspect of women’s rights, the complementary goal of research was to focus upon the instruments of specific feminine entitlements, namely “special care and assistance” towards mothers. The goal of the research was be to identify types of such assistance, contained primarily within labor law and social security schemes. Assistance should also be provided within healthcare system, with the aim of protecting reproductive abilities and rights of women (excluding abortion). The further research question was whether various mechanisms of positive discrimination designed to promote women’s participation in the public life (like e.g. quota system) should be regarded

as instruments embodying the maternity entitlement of “special care and assistance”.

Society: Maternity (and more generally parenthood) is of vital importance for the well-being, preservation and development of human communities. Thus women’s rights oriented towards receiving special care and assistance during the period of maternity are of vital importance, too.

Originality: The research was performed alongside other contemporary legal analysis of maternity.

Limitations / further research: The research on maternity may be continued and developed within interdisciplinary perspective (with the use of philosophical feminist theories, psychological, sociological, and demographical examination or in the analysis of economic impact of motherhood). There is also a need to use comparative methods on maternity assistance schemes adopted on domestic level of regulation.

Keywords: women’s rights, feminism, maternity, pregnancy, childbirth, social assistance, positive discrimination.

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