

**THREE GENERATIONS OF HUMAN RIGHTS OF WOMEN IN
THE 20TH CENTURY: AN ANALYSIS OF INTERNATIONAL
LEGAL DOCUMENTS**

A Master's Thesis

by

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Ankara

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LEGAL DOCUMENTS**

Graduate School of Economics and Social Sciences
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July 2014

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ABSTRACT

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This thesis focuses on the generations of human rights of women based on Vasak's notion of three generations of human rights - in which the first generation rights refer political and civil rights; the second generation rights include economic, social and cultural rights while the third generation represents collective rights. To make a comparison between three generations of women's human rights within the framework of 20th century international law, the thesis examines and analyzes plenty of international legal documents and reports of international conferences related with women's rights throughout the century. This study emphasizes that when Vasak's notion of three generations of human rights is applied to women's rights in international legal documents of 20th century, the notion becomes more than a

classification. Three generations of human rights of women reflects a real differentiation in terms of content, matter, priority, superiority and predominancy of the first generation to other two generations.

Keywords: women's rights, three generations of human rights, international law, international legal documents, 20th century

ÖZET

20. YÜZYILDA KADINLARIN ÜÇ KUŞAK İNSAN HAKLARI: ULUSLARARASI LEGAL BELGELERİN BİR ANALİZİ

Birdal, Sevcan

Yüksek Lisans, Uluslararası İlişkiler Bölümü

Tez Danışmanı: Yrd. Doç. Dr. Paul Andrew WILLIAMS

Temmuz 2014

Bu tez, hususiyetle Vasak'ın üç kuşak insan hakları kavramına dayanarak kadınların kuşak haklarına odaklanmaktadır – bu kapsamda birinci kuşak haklar politik ve sivil hakları ima ederken ikinci kuşak haklar ekonomik, sosyal ve kültürel hakları kapsamakta ve üçüncü kuşak haklar kolektif hakları temsil etmektedir. Tez, 20. yüzyıl uluslararası hukuku çerçevesinde kadınların üç kuşak insan hakları arasında karşılaştırma yapmak üzere yüzyıl boyunca kadın hakları ile ilgili hazırlanmış olan pek çok uluslararası legal belgeyi ve uluslararası konferans raporlarını incelemiş ve analiz etmiştir. Bu çalışmada; 20. yüzyıl uluslararası legal belgeleri kapsamında, Vasak'ın üç kuşak insan hakları kavramı kadın haklarına uygulandığı takdirde, kavramın sınıflandırmadan daha öte bir hale geldiği vurgulanmaktadır. Kadınların üç

kuşak insan hakları; birinci kuşak hakların diğer iki kuşağa içerik, önem, öncelik, üstünlük ve hakim olma bakımından gerçek bir farkını yansıtmaktadır.

Anahtar Kelimeler: kadın hakları, üç kuşak insan hakları, uluslararası hukuk, uluslararası legal belgeler, 20. Yüzyıl

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CHAPTER I

INTRODUCTION

1.1. The Problem

Although many crimes – including torture, beating, rape and murder – when committed against anyone are forbidden and are recognized as a violation of human rights; they are regularly ignored or disregarded and become invisible when the victim is a woman. The reason that lies under these violations is that women's rights and the issues related to women have been mostly seen in the private sphere – such as women's bodily integrity. However, non-discrimination based on gender has been ensured since 1945 - the UN Charter and several other binding international legal documents such as conventions and declarations have focused to protect, to promote and to guarantee these basic rights and freedoms of women. This is because, it is not possible to say that human rights are only a dignity of or belong to only one specific group. In this regard, women's rights usually refer to legal norms concerning gender based nondiscrimination to promote equal treatment and opportunities for both women and men.

According to Karel Vasak who is an international human rights scholar, there are

three generations of human rights: The first generation of human rights refers to political and civil rights, the second generation of human rights focuses on economic, social and cultural rights while the third generation of human rights points out the collective rights such as developmental and environmental rights. To better understand his division, it is important to clarify that Vasak does not use the term 'generation' to imply or say that previous generations of human rights give rise to next generation of rights. What he does is relating and justifying his personal classification on human rights with the famous and very well-known principles of the 1789 French Revolution, which are *liberté, égalité* and *fraternité*.

However, during the 20th century, some basic rights of women - second and especially third generation of human rights of women which refer to economic, social and cultural rights and also developmental and environmental rights, in other words collective rights – are less frequently and quite lately focused on and subjected than the other basic rights of women, which are basically political and civil rights, in other words the first generation of human rights of women, in international legal documents which shape international law as one of the basic sources of international law. Not only are there more conferences held while there were more conventions, declarations, action plans and recommendations advised or adopted, but also more effective principles, obligations, provisions, guidelines and regulations were recommended and prepared to guarantee the protection of the first generation of human rights of women. Moreover, it is seen that basic human rights and freedoms of women which belong to second and especially third generation of rights are subjected notably late in international legal documents and international law comparing to the first generation of rights. Therefore, in this thesis, there will be a

simple attempt to prove that first generation of human rights of women had been more effectively protected, guaranteed and subjected than the second and especially third generations of human rights of women in international law by analyzing international legal documents and final reports of international conferences of the 20th century. Moreover, under the light of that comparison, an analysis on the possible reasons of existed unequal situation of women's rights and freedoms in 20th century international law will be done based on Vasak's notion of generation of human rights.

1.2. Research Question and Research Method

1.2.1. Research Question

This thesis looks to answer the following questions:

Were the generations of human rights of women equally subjected by the international law throughout the 20th century, or the classification based on three generations – in which first generation rights refer political – civil rights, second generation rights include economic, social and cultural rights while third generation represents collective rights – of human rights of women reflects a real differentiation in terms of content, matter, priority, superiority and predominancy?

1.2.2. Research Method

The methodology of the thesis is *content analysis* which is a research method that researchers use to examine communication channels such as written documents. According to Holsti (1968: 608) content analysis is “any technique for making inferences by systematically and objectively identifying special characteristics of

messages.” Berelson (1952: 74) defines content analysis as “a research technique for the objective, systematic, and quantitative description of manifest content of communications”. Nachmias and Nachmias (1976: 132) say that content analysis is a methodology in which messages of content determine both results and inferences of the content. Moreover, Kerlinger says that this is an observation methodology which focuses on communications instead of asking questions (1973: 101). Weber also says that content analysis is used “to make valid inferences from text” (1985: 59).

Content analysis is commonly used in several area of research such as history, social sciences, communication and linguistic studies, psychology and political science by social scientists. One of the crucial steps of making content analysis is determining “criteria of selection” and “content categories” which are a must for objective content analysis. Holsti explains the importance of criteria of selection as follows: “The inclusion or exclusion of content is done according to consistently applied criteria of selection; this requirement eliminates analysis in which only material supporting the investigator’s hypotheses are examined” (1968: 598).

Criteria of selection of this thesis is specified as international legal documents including final reports of international conferences, treaties, conventions, declarations, agreements, action plans, covenants, recommendations and measures in the 20th century which were counted as one of the main sources of the 20th century international law. Content categories of the research are determined as “three generations of human rights of women” which is derived from Vasak’s classification of “three generations of human rights”.

During the literature review, it becomes clear that there have been any specific explanatory or comparative academic work on the generations of human rights of women. Although there have been academic works on women in the international legal documents and generations of human rights in international law; neither Vasak nor any other scholars relate the notion of three generations of human rights directly to the women's rights. Therefore, there is a need for a comparison of generations of human rights of women of the 20th century international legal documents in order to witness increasing influence of human rights and the expanding women's movement on international law and also show the obvious differences between generations of women's rights in terms of content, matter, priority, superiority and predominancy. Within this scope, this thesis is an important attempt to contribute and to extend the literature by discussing three generations of human rights on the basis of women's rights and freedoms.

In this sense, international legal documents of the 20th century related with women's rights are tried to be analyzed throughout the thesis. This analysis will be conducted and completed in three separate chapters in accordance with Vasak's three generations of human rights. Each chapter will focus one generation of human rights of women in order to make objective and systematic content analysis of various international legal documents of the 20th century related with women's rights and freedoms.

1.3. Key Concepts

In order to answer the research question of the thesis, it is necessary to define several

key concepts, namely: Vasak's notion of three generations of human rights, women rights and international law.

1.3.1. Vasak's Division: Three Generations of Human Rights

Karel Vasak, who was born in Czechoslovakia and then became a citizen of France, works on and teaches international law and especially international human rights law. Then in 1979, he proposed his classification in an opening lecture of the International Institute of Human Rights in Strasbourg, in which Vasak became and served as the first secretary general of the Institute. He also became the Director of Human Rights and Peace and then also as a legal advisor to UNESCO and the World Tourism Organization. Besides contributing several articles on international law and human rights law, he is also the writer of *The International Dimensions of Human Rights* which is one of the well - known books of the area of human rights.

In 1977, Vasak used the classification / notion of **three generations of human rights** for the first time in his article entitled "A Thirty – Year Struggle: The sustained efforts to give force of law to the Universal Declaration of Human Rights" which was published as a part of *UNESCO Courier*. Then, in 1979, under the title of "For the 3rd Generation of Human Rights: The Rights of Solidarity" Vasak started to expand and to detail his notion of three generations of human rights.

According to Vasak's notion of three generations of human rights (1979); the first generation of human rights refers to political and civil rights, the second generation of human rights focuses on economic, social and cultural rights while the third

generation of human rights points out the collective rights such as developmental and environmental rights. To better understand his division, it is important to clarify that Vasak does not use the term 'generation' to imply or say that neither previous generation of human rights give rise to the next generation of rights and fade away in time nor one generation is less crucial than others. What he does is to relate and justify his personal classification on human rights with the famous and very well-known principles of the 1789 French Revolution (Algan, 2004: 36). The principles are *liberté*, *égalité* and *fraternité* which mean liberty, equality and fraternity (Censer and Hunt, 2001: 93).

1.3.1.1. The First Generation of Human Rights

According to Vasak, the first generation of human rights was founded on the principle of *liberté* which focused on freedoms and liberties of individuals. He claims that the first generation of human rights requires no material obligations or sanctions (1979: 4). They are mainly constructed as individualistic and are created to provide protection for individuals from state power. According to *UN Chronicle* (2009), the first generation of human rights may be called '*negative*' rights since this generation includes basic rights of 'freedom from' and 'freedom of' something. On the division of rights among the generations, Sumner Twiss (1998: 272) says that first generation of rights which include political – civil rights has two kinds of norms: rules related to civil and physical security and also rules regarding political – civil liberties and reinforcements. On generations of human rights, Claude and Weston (2006: 21) enumerates human rights according to Vasak's classification of three generations. According to his alignment, the first generation of human rights are

listed as follows:

- *right to life, liberty and the security*
- *freedom from slavery or involuntary servitude*
- *freedom from torture and cruel inhuman degrading treatment or punishment*
- *freedom from arbitrary arrest, detention or exile*
- *right to a fair and public trial*
- *freedom from interference in privacy and correspondence*
- *freedom of movement and residence*
- *freedom of thought, conscience and religion*
- *freedom of opinion and of expression*
- *freedom of peaceful assembly and association*
- *right to participate in government directly or through elections*
- *right to own property and not be arbitrarily deprived of one's property*

As it can be clearly seen from the list of first generation of human rights above, the first generation of rights are the rights that provide protection to individuals from state and promote freedoms and liberties that are directly related with basic political and civil rights of human beings.

1.3.1.2. The Second Generation of Human Rights

On the other hand, according to Vasak, the second generation of human rights are related with the principle of *égalité* in order to create equality among people. Moreover, the second generation of human rights are described as '*positive*' rights by Vasak since the second generation involves basic rights of 'right to' something. Against the first generation of rights, the second generation of human rights directly requires institutional system, which allows human beings to exercise these rights,

from the state (Cornescu, 2009: 5). The second generation rights create and also require material obligations, duties and sanctions that shall be respected, recognized and fulfilled by the states to protect the well-being of human beings and to guarantee equal treatment, opportunities and conditions for all (*UN Chronicle*, 2009). According to Twiss (1998: 275) there are two types of norms of economic, social and cultural rights, which are also known as the second generation of human rights. Those are rules related with the provisions on adequately meeting economic and also social needs. On the other hand, while Claude and Weston (2006: 22) makes enumeration of human rights under three generations, he lists the following rights under the title of second generation of human rights:

- *right to social security*
- *right to work and protection against unemployment*
- *right to rest and leisure including periodic holidays with pay*
- *right to standard of living adequate for the health and well-being of self and family*
- *right to education*
- *right to protection of one's scientific, literary and artistic production*
- *right to free choice of employment*
- *right to form and join trade unions*
- *right to freely participate in the cultural life of the community*
- *right to food*

In other words, the second generation of human rights mainly focuses on basic economic and social rights which require governments to work harder in order to make every citizen to exercise and enjoy these rights. Economic, social and cultural rights bring material obligations to states because recognizing – for instance the right to education or the right to health are not enough to exercise these rights. Therefore,

it can be said that the second generation of human rights stand for enhancing public welfare (Sehmer, 2007: 3).

Accessibility is crucial for exercising the second generation of human rights because; although states recognize these rights such as right to education for every single citizen, unless there are enough numbers of educational facilities throughout the country it is not possible to say that everyone can enjoy and exercise their recognized rights since some people cannot easily access educational facilities.

1.3.1.3. The Third Generation of Human Rights

Finally, according to Vasak's justification, the third generation of human rights are based on the principle of *fraternité* which brings fraternity, collectivity and solidarity to human beings. In addition to that, it is said that third generation of human rights are developmental and solidarity rights which include rights that are not political, civil, economic, social or cultural in nature (Vasak, 1979). Within the scope of Vasak's class at International Institute of Human Rights, the third generation of rights are explained and defined as follows (quoted by Marks, 1998: 441):

“are new in the aspirations they express, are new from the point of view of human rights in that they seek to infuse the human dimension into areas where it has all too often been missing, having been left to the State, or States...[T]hey are new in that they may both be invoked against the State and demanded of it; but above all (and herein lies their essential characteristic) they can be realized only through the concerted efforts of all the actors on the social scene: the individual, the State, public and private bodies and the international community.”

Several academics and researchers such as Algan (2004) make the categorization of human rights by associating the first generation of human rights with the rights under the protection of the International Covenant on Civil and Political Rights and second generation rights with the ones under the protection of the International Covenant on Economic, Social and Cultural Rights while describing third generation of human rights as rights beyond these two generations of rights.

Furthermore, on the third generation of human rights, Twiss (1998: 279) also identifies two subtypes as follows: rules pertaining to self-determination and rules related with special developmental rights. On the other hand, according to Claude and Weston (2006: 21) who enumerates human rights separately under three generations, the third generation of human rights covers such rights as follows:

- *right to political, economic, social and cultural self determination*
- *right to economic and social development*
- *right to participate in and benefit from the common heritage of mankind*
- *right to peace*
- *right to healthy and balanced environment*
- *right to humanitarian disaster relief – suggest the inefficiency or importance of nation – state in certain critical respects*

Since the scope of the third generation of human rights has not been pointed out by an international covenant; these rights are sometimes described in a broad sense such as the rights beyond the first and the second generations of human rights. As it can be seen from the list above, the third generation of human rights, in other words collective rights, are mainly related with healthy development of and healthy

environment for human beings. Therefore, Alston (1982: 312) says that against the first and second generation of human rights, the third generation of human rights are both adequately dynamic and flexible to respond the demands and circumstances of new ages.

1.3.2. Women's Rights

Simply because of being female, substantial numbers of women regularly experience torture, murder, humiliation, beating, mutilation and rape. Although many crimes – including the ones listed above – when committed against anyone are forbidden and are recognized as a violation of human rights; they are regularly ignored or disregarded and became invisible when the victim is a woman. In other words, when we put it in a simple way, there has been undeniable gender based discrimination.

Actually, to promote women's rights and to prevent gender based discrimination, there are several conventions, agreements and reports prepared and put in force during international meetings and conferences of the 20th century when the protection of and the respect for human rights became an international matter. Some of those focus on the protection of human rights in general and so include the protection of women's rights as sub title, while others urgently focus on to emphasize and to underline only the protection and the importance of women's rights. For instance, Article 2 of the *Universal Declaration of Human Rights* which was adopted by the UN on December 10, 1948 states that “the rights and freedoms set forth in this Declaration, without the distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other

status.” However, for some scholars such as Peters and Wolper (1995: 203) women’s rights, freedoms, equality and moreover their dignity had been violated by insufficient and inadequate laws until the 1993 Vienna Conference – World Conference on Human Rights, in which women's rights were clearly accepted as human rights, there was not special attention paid for women's human rights at the international level.

Charlotte Bunch, who is a human rights and particularly a women's rights activist, says that women’s rights has not received enough attention until then (1990: 488). Bunch states four points that were shown as excuses by governments and organizations on violation of women' rights in past. Those four points were as follows:

“1)Sex discrimination is too trivial, or not as important, or will come after larger issues of survival that require more serious attention;

2)Abuse of women, while regrettable, is a cultural, private, or individual issue and not a political matter requiring state action;

3)While appropriate for other action, women’s rights are not human rights per se; or

4)When the abuse of women is recognized, it is considered inevitable or so pervasive that any consideration of it is futile or will overwhelm other human rights questions.”

According to Tomasevski (1993: 46) when we look at the history of women’s rights, it could be seen that there had been several mistakes, inequalities and confusions occurred while trying to diminish inequalities as a result of women’s special

conditions such as motherhood. He claims that education is a best way to empower women and protect women's rights in several ways. On the issue, Rhodie (1989: 497) recommends that women should gain political power in order to diminish inequalities, be able to raise their voices and to access to their basic rights and freedoms. Additionally, to protect and to promote basic rights and freedoms of women and also their equality with men, it is needed that states reshaped their policies addressing women as European Community does (Mazey, 1998: 139).

After discussing gender based discrimination, the reasons of states' connivance on violations of women's rights, the solutions for violations of women's rights and basic international protection on women's rights in general; the fundamental question that "what should we understand from the notion of 'women's rights'?" should be asked. According to Charlesworth (1994: 39), women's rights can be understood as international instruments that focus especially on women. However, most of the time, women's rights refer to legal norms on gender based nondiscrimination to promote equal treatment and opportunities for both men and women (Henever, 1986: 153). To better understand the concept of women's rights, the concept of women's rights will be analyzed under two subtitles in which there is a try to analyze and explain the emergence of women's rights movement at first and then women's rights as human rights.

1.3.2.1. Emergence

The emergence of women's movement for claiming their basic rights and freedoms was not a phenomenon that started in 20th century. Within various places and groups, more and more women started to commit the idea that every human being has their

basic rights starting from late 18th century. However, they did not call themselves as “*feminists*” until 1910s (Alonso, 1993: 5). Starting from late 1960s, the women’s movement became more effective as a result of attempts of feminist activists and scholars. They claim that it is not possible to say that human rights are only a matter of human dignity and a property of that belongs to only one specific group – which is namely ‘men’. However, highly patriarchal structure of 20th century made women’s rights to be discussed and considered as controversial and unimportant occasionally (Coleman, 2004: 80). In this framework, the emergence and the rise of women’s movement – feminist movement was crucial for the protection and respect for women’s rights because feminists support the necessity of the redefinition of violations of human rights including women's rights abuses.

According to C. Bunch (1990: 14) “The specific experiences of women must be added to traditional approaches to human rights in order to make women more visible and to transform the concept and practice of human rights in our culture so that it takes better account of women's lives.” The emergence of human rights of women – known as women's movement - started with women's organizations at various levels such as local, international and regional in the 20th century (Friedman, 1995: 87). Women's organizations together with activists of human rights of women work to promote women's both political – civil, economic – social – cultural and also developmental - environmental rights (Eide, 1986: 44). By this way, women’s rights turned into a topic of international agenda which turned into undeniable, notable and remarkable issue starting from late 1960s (Wolbrecht, 2000: 74).

The support of UN was very precious for women’s rights movement. The equality in

terms of rights and freedoms for women and men is one of the basic principles of UN Charter. Moreover, UN Charter has special importance since it is the first international legal and binding document that focuses on the equality principle (Reanda, 1981: 11). Additionally, according to Miller (1991:96) women's movement has evolved within the space that occurs by the support of the UN such as the declaration of UN Decade for Women (between 1976-1985) and holding the World Conferences on Human Rights. Actually, making gender as leading topic of international conferences of UN could be seen as one of the greatest success of women's rights movement since gendering the agenda during 1990s, influence international agenda and global understanding of women's rights via final reports and outcomes of those conferences (Friedman, 2003: 315). Thus, women's rights became one of the areas of focus within international human rights agenda and framework.

Making women's rights a part of international human rights agenda caused rethinking and questioning the existing "hierarchy of rights" which gives priority of civil and political rights and includes discrimination against several groups of society (Okin, 1998: 17). Friedman (1995: 89) says that "there is tremendous potential in the women's movement to put political, civil, social, economic and cultural rights together, as well as to be a force for a much more powerful understanding of human rights as indivisible." The indivisibility issue caused a crucial challenge to existing human rights frameworks and law because human rights law used to promote human rights publicly. However, women's rights and the issues related to women are mostly seen as private – such as women's bodily integrity – and so women's rights caused challenges and make human rights law reoriented.

On human rights law, feminist activists say that women's rights were excluded from human rights law and showed the violence against women as the basic example of the exclusion. On this Bunch says (quoted by Friedman, 1995)

You can see in violence all the things the human rights community already says it's against: it involves slavery, it involves situations of torture, it involves terrorism, it involves a whole series of things that the human rights community is already committed to [fighting, but which] have never been defined in terms of women's lives.

In this regard, according to feminists, violence against women proves that there was need for change in and re-conceptualization of international human rights law to include women's matters. By this way, according to Stamatopoulou (1995), conceptual and operational level of weaknesses of the international community which cause exclusion of women from human rights law and international human rights agenda, can be solved. That is, in other words, as a result of women's exclusion, women's rights movement occurred and gained momentum during the 20th century.

1.3.2.2. Women's Rights as Human Rights

Human rights and women's rights were not seen as a matter of international concern until the end of the first half of 20th century (Gaer, 2009: 60). Moreover, sometimes, especially in the third world, it was seen that the discourses of human rights and women's rights were products of cultural development and more importantly products of Europe (Coomaraswamy, 1997: 1249). As a result of this perspective,

some scholars focused on women's rights related with private lives of women such as motherhood and marriage rather than focusing on whole women's rights including economic, developmental and social (DuBois, 1998: 68). However, such existed traditional exclusion of a one sex - women – and kinds of rights – economic and social - from the discourse of human rights caused invisibility, abuses and violations of women's rights and freedoms for a long time (Hernandez - Truyol, 1996: 608). Moreover; besides not considering women's rights as human rights; the lack of political will of states, regimes of national governments, deficits of enforcement mechanism, lack of resources to set standards for all caused violation of women's rights in the first half of 20th century (Galey, 1984: 463).

Stamatopoulou (1995) says that “...from the point of view of international law, women's rights are human rights. However, dominant legal theory is only just beginning to recognize as human rights some rights claimed by the women's movement.” Actually, non-discrimination based on gender has been ensured since 1945: The UN Charter declared in June, 1945, the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (ICESCR, declared in 1966) and the International Covenant on Civil and Political Rights (ICCPR, declared in 1966) are the main documents that the principle of non-discrimination is guaranteed as well as other regulations and provisions about the fundamental rights of women.

Several articles of the UDHR – such as article 16, 23 and 25 - focused on women's equal rights to marriage, equal right to work – and equal payment – besides protection of motherhood. Articles 6, 23, 25 and 26 of the ICCPR provided equality

between two sexes during and after – in case of dissolution – the marriage, the principle of non-discrimination, equality before law, equality in the right to participate in social and public life and additionally prohibition of death sentence for pregnant women. Additionally, on the other hand, articles 7 and 10 of the ICESCR promoted equal payment, equal opportunities to work and maternity leave for women workers with benefits of social security.

Moreover, there are several other international treaties and agreements that have been prepared and signed to protect women's rights. Some of them are: the Discrimination Convention by ILO in 1958, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families in 1990, the Convention against Discrimination in Education by the UN in 1960, the Declaration on the Protection of Women and Children in Emergency Armed Conflict by the UN in 1974, the Equal Remuneration Convention by the ILO in 1951, the Convention on the Political Rights of Women in 1952 by the UN, the Slavery Convention by the League of Nations in 1926 and the Convention on the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others by the UN in 1949.

In 1979, after all, one treaty prepared to focus particularly women's rights, the Convention on the Elimination of All Forms of Discrimination against Women – also known as CEDAW. The parties of the CEDAW were urged by the UN in order to take all necessary legislative, administrative and regulative measures to ensure women's access to and exercise of their fundamental human rights and freedoms equally with men (Stamatopoulou, 1995).

Some scholars argued that although after all of these international treaties mentioned above and several unmentioned ones, it is obvious that women's rights are legally and internationally accepted as human rights and are subjected to human rights law; human rights law obviously failed to protect women's rights, gender based discrimination and violation (Goldberg and Kelly, 1993: 195). However, the fact should not be ignored that as a part of human rights law, women's rights are the subject to international law and are concern of international agenda. On the issue, Simmons says that (2009, 203):

“Attitudes toward women often frustrate the efforts of the most sincere governments to improve significantly women's rights chances. But...an international legal commitment may play an important role in helping girls and women achieve better access to education and jobs and secure better control over their reproductive future. When governments publicly announce that they are bound by the contents of treaty arrangements, women and their advocates tend to mobilize to realize the rights that those treaties address. International legal commitments to protect the rights of women have had important consequences in many cases.”

1. 3. 3. International Law

The term of “international law” was very firstly used in 1780 by Jeremy Bentham who refers to a system of rules that bind both international agents and states in their relations. In the modern world, the term is used to refer to governing conduct and relations of sovereign states, sui generis entities, IOs within their relations with each other and with other international agents such as individuals (Evans and Newnham, 1998: 261).

As other laws, international law has main sources. The essential sources of international law were enumerated by Article 38 of the Statute of International Court of Justice, which is an international court that acts as fundamental judicial organ of the United Nations, in 1945 as follows:

a. international conventions, whether general or particular, establishing rules expressly recognized by the contesting states;

b. international custom, as evidence of a general practice accepted as law;

c. the general principles of law recognized by civilized nations;

d. subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

The quartet categorization of the sources of international law above enumerated in accordance with the order of sources' importance such as section (a) is more crucial than section (b) which is more important than (c) and (d). International treaties – conventions and international custom, which are the categories of (a) and (b) above, are accepted as primary sources since categories of (c) and (d) are usually applied when international treaties and customs fails (Evans and Newnham, 1998: 263).

As it can be seen above, in international law, law creating process is obviously based on those four sources, and moreover existence of an international law rule should be demonstrated by referencing to those sources (Marks, 1998: 435). Based on this principle, international conventions and agreements establish rules recognized by the contesting states. When a country becomes a party of an agreement and / or signs a

treaty, then that international legal document bind that country – which means as a party, the country should obey the rules set by the document or there will be legal sanctions. More importantly, if there is an incompatibility between national law and the binding international legal document, then international legal document has the superiority over national law. In other words, international legal documents – international law is superior to national law.

On the other hand, international custom occurs as a result of generally accepted principles which are discussed and decided generally during international conferences. These are the principles that are respected, accepted, implemented by several states for a long time. These generally accepted principles create first steps for international norms – which are non binding catalyst of international law. Although some of international legal documents did not bind countries or some of them did bind only a few countries; international legal documents and international conferences are main sources of international law.

Actually, respect to international legal documents on human rights and women's rights, whether these documents are binding or non-binding is a crucial question. If an international legal document is a binding one such as international convention – agreement, then we have to look for whether they are ratified or not by concern state. If they are ratified, they ipso facto binds and amends the concern state. However, if the concern state does not ratify the document, then the state will be subjected to the political supervision by the states or by IOs. Nevertheless, the most important thing related with the binding of an international legal document is commitment of subjected state to comply with generally accepted human rights norms or not.

1.3.3.1. Treaties - International Legal Documents in International Law

According to many international law experts, academics and researchers, treaties are the most significant source of international law and so are seen superior to other sources including custom (Müllerson, 1989: 494). Moreover, since any international treaty – multilateral or bilateral – has priority over national law in case of conflict, it is obvious that treaties are crucial, prior and superior sources both for international and national law.

There are a variety of names that are given to international treaties such as convention, charter, pact, declaration, agreement, covenant and statutes. However, all of these terms refer to the creation of legally binding written agreements / documents for parties in order to act according to particular way or to have particular relations in the light of obligations that parties agreed to carry out (Shaw, 2006: 85).

The priority and importance of international treaties come from one of the basic principles of international law: *pacta sunt servanda* which means that agreements between states should be upheld unless there is a substantial change in the existing situation (*Britannica Encyclopedia*). According to Shaw (2006: 88), it is possible to group treaties into two as “law making treaties” and “treaty contracts”. Law making treaties are main agreements that make treaties a superior source to others since they are basically intended to affect universal rules, norms and regulations; that is why a large number of states’ participation is required. On the other hand, treaty contracts among small number of states - and generally - on a limited issue could affect the

customs and so of international law (McNair, 1957: 1). In other words, since international treaties are primary sources of international law, international legal documents – treaties - are significant actors to shape international law.

1.3.3.2. Human Rights in International Law

To be able to talk about the generations of human rights of women in 20th century international law, several international legal documents – including both signed and unsigned documents such as international treaties, conventions, covenants, action plans, recommendations, measurements and reports of conferences - are tried to be analyzed throughout the following chapters of the thesis. However, before making this analysis, it is necessary to talk about the place of human rights in international law since the concept of human rights covers women’s rights in modern world.

The concept of human rights is an entitlement to capabilities that belong to every single individual; without any discrimination about their sex, race, religion or age; only because that person is a human being (Hoffman and Graham, 2009: 278). For every individual human rights are indispensable and also inalienable which means that possessing of those rights is not related to belonging to a specific state, culture or group. As Sally Engle Merry says “human rights promote ideas of individual autonomy, equality, choice and secularism even when these ideas differ from prevailing cultural norms and practices” (2006, 4). However, although the protection of and the respect for human rights were seen as a crucial issue, their role and nature in international law caused confusion since the human rights issue was generally accepted as a domestic problem – not an international issue until the end of first half

of the 20th century (Moskowitz, 1968: 98).

The sense of human rights in international law and politics started to change starting from last of the first half of the 20th century. The foundation of League of Nations in 1919 can be counted as the very first step that made a significant change for international protection of human rights (Shaw, 2006: 70). Additionally, the establishment of the United Nations in 1945 and the rise of NGOs that focus on protection of and respect for human rights increased the pressure and emphasized the necessity for international protection of human rights; especially after the Second World War when people's fundamental rights – right to bodily integrity, right to life, freedom from torture and inhuman treatment – were substantially violated (Hoffman and Graham, 2009: 283). By this way, the human rights issue has shifted from domestic level to international level and become the subject of international law, in which, the respect for the basic human rights and freedoms become fundamental principle (Sehmer, 2007: 2).

Actually, there have been discussions between supporters and critics of international law on the importance, power, role, effectiveness and limits of international law on the protection of human rights (Goldsmith and Posner, 2006: 57). However, ratified international legal documents bind and amend the parties and in case of disobeying or violating the specified rules; then international community, the UN or another IO impose sanctions and implement political supervision to the party. Besides cohesiveness of international law by signing and ratifying international legal document, international law matters on the protection of human rights. In fact, in a case of mass crimes and/or serious violation of human rights, international

community could get involved by crucial norms of international law as ‘humanitarian intervention’ and ‘responsibility to protect’ which basically and principally regards and focuses on human rights and human security (Reisman, 1990: 869). Because lives, dignity and rights of human beings are protected, promoted, enhanced and guaranteed by bodies of international law such as international human rights law, international humanitarian law and international criminal law (Ratner, Abrams and Bischoff, 2009: 146).

1.4. Structure

As an introduction, the first chapter starts with the problem that is focused on and tried to be analyzed by the thesis. Then, after giving research question and research methodology of the study and the thesis, information about three key concepts are provided as follows: Karel Vasak's notion of “three generations of human rights”, women's rights under two subtitles as ‘the emergence of women's rights’ and ‘women's rights as human rights’ and international law under two subtitles “treaties – international legal documents in international law” and “human rights in international law”. These basic information are needed to understand the argument that the thesis puts out while making an analysis of and comparison between the three generations of human rights of women in international legal documents and reports / outcomes of international conferences, which are the main sources of international law, in the following three chapters. Lastly, the introduction chapter ends up with detailed structure explanation and summaries of following chapters.

Since the purpose of this thesis is to try showing that during the 20th century, some

basic rights of women are less and focused lately than the other basic rights of women in international legal documents and in international conferences; the second chapter will focus on and analyze women's first generation of human rights in detail. To do so, within the scope of women's first generation of human rights; the right to political participation, freedom from gender based discrimination, right to marry, right to found a family, protection of motherhood, protection from slavery, human trafficking and prostitution and finally the freedom of the media and access to information are tried to analyze in the second chapter.

In this sense, the second chapter includes the analysis of six different international documents on the right to political participation, three different documents on the freedom of information and mass media, eleven separate international documents on the right to marry and seven diverse legal documents on the right to found a family. Moreover, the chapter also includes the analysis of fifteen different international legal documents on the prevention of gender discrimination, four separate documents on the protection of motherhood and four diverse international legal documents on slavery, human trafficking and prostitution of others.

To prove the thesis and to make comparison between women's different generations of human rights, after analyzing women's first generation of human rights, economic – social and cultural rights of women are tried to examine in the third chapter. Therefore, within the scope of women's second generation of human rights; right to food; labour rights and the right to work; social rights; right to health and finally right to education are tried to analyze in the third chapter.

In this sense, the third chapter includes the analysis of three different international documents on the right to access to food, four different documents on the right to education and also five separate international documents on social rights. Moreover, the chapter also includes analysis of thirteen different international documents on the right to health care and eight diverse international legal documents on the right to work as well as labour rights.

After analyzing women's first and second generations of human rights in the previous chapters, the third generation rights of women – collective rights - are tried to examine in the fourth chapter. To do so, within the scope of women's third generation of human rights; the right to development and the right to healthy environment are tried to analyze in the fourth chapter. In this sense, the fourth chapter includes the analysis of ten different international documents on the developmental rights and also two different international documents on environmental rights.

The main purpose behind these analysis is to prove that there are fewer conferences held while there were less and very lately conventions, declarations, action plans and recommendations advised or adopted related with the second and particularly third generations of human rights of women compared to the first generation of human rights of women. Also there are less effective principles, obligations, provisions, guidelines and regulations were recommended and prepared to guarantee the protection of the second and the third generations of human rights of women in the 20th century. Moreover, the comparison will prove that international law started to subject second and especially third generation of human rights quite late compared

with the first generation of human rights.

Finally, the fifth chapter, as a conclusion, includes the evaluation and comparison of the previous chapters and will try to develop preliminary argument into a thesis. After summarizing the previous chapters, in which women's rights, the notion of three generations of human rights and three generations of women's human rights in international legal documents are summarized, the final chapter emphasizes the main argument that classification based on generation – in which the first generation rights refer to political – civil rights, second generation rights include economic, social and cultural rights while the third generation represents collective rights – of human rights of women reflects a real differentiation in terms of content, matter, priority, superiority and predominancy.

To sum up, throughout the paper, series of analysis of several international legal documents will be promoted in order to support the preliminary thesis argument as follows: During the 20th century, some basic rights of women - second and especially third generation of human rights of women are less and rather lately focused on and subjected than the other basic rights of women in international legal documents and within international conferences which are main sources of international law. These basic rights and freedoms are basically political and civil rights – in other words the first generation of human rights of women. Not only there are more conferences held while there were more conventions, declarations, action plans and recommendations advised or adopted, but also more effective principles, obligations, provisions, guidelines and regulations were recommended and prepared to guarantee the protection of the first generation of human rights of women. Moreover, international

legal documents of the 20th century undeniably subjected the first generation of human rights earlier than second and especially third generation of human rights which bring important material sanctions to governments. Therefore, in this work, there will be a simple attempt to prove that first generation of human rights of women had been more effectively, predominantly and primarily protected and guaranteed than the second and especially third generations of human rights of women in 20th century international law by analyzing international legal documents and outcomes of international conferences. Moreover, under the light of that comparison, an analysis on the possible reasons of existed unequal situation of women's rights and freedoms in 20th century international law will be done based on Vasak's notion of generation of human rights.

CHAPTER II

THE FIRST GENERATION OF HUMAN RIGHTS OF WOMEN

2.1. Introduction

In this chapter, the political and civil rights of women – first generation of human rights of women – as reflected in the international legal documents and agreements and as held in international conferences will try to be analyzed. The chapter has seven main parts where each one focuses on international legal documents on women's basic political and civil rights that affects international law as follows: the right to political participation which includes the right to vote and to be voted for; gender discrimination; right to marry; right to found a family, protection of motherhood; slavery, human trafficking and prostitution and finally the freedom of the media and access to information. In this framework, 50 documents – including charters, conventions, action plans, declarations, strategy plans, recommendations, legislations, comments and other documents of 20th century related with basic political and civil rights of women are analyzed in order to show that first generation of human rights of women had been focused primarily in terms of content and amount.

2.2. The Right to Political Participation

The Convention on the Political Rights of Women, which was prepared by the UN in 1952, is one of the international legal documents that focus on women's right to political participation. According to the Convention, parties are willing to apply the principle of equality of human rights for men and women that is pointed out by the UN Charter. Also, the parties of the Convention accept that every human being has the right to be a part of government directly and / or by choosing its representatives freely, which are guaranteeing the right to political participation of men and women. Plus, the Convention points out that the parties not only recognize the right to access of their citizens to public services but also the will for equalizing the exercise of political rights of men and women. To do so, the first article of the Convention points out that “Women shall be entitled to vote in all elections on equal terms with men, without any discrimination.” Also the second article of the Convention was agreed as “Women shall be eligible for election to all publicly elected bodies, established by national law, on equal terms with men, without any discrimination.” Finally the third article of the Convention says that “Women shall be entitled to hold public office and to exercise all public functions, established by national law, on equal terms with men, without any discrimination.”

The World Plan of Action of the International Women's Year, which was accepted by the UN in 1975, is one of the crucial international documents on the women's rights. The articles related with the right to political participation of women are inclusive of Articles 57-63. *The World Plan of Action of the International Women's Year* points out that even if women constituted half of the world's population, only a very small

number of them, within the majority of the countries, have positions of leadership in branches of their governments. The main purpose of the Plan set out to help to women to achieve equal rights and opportunities to participate to the political and public life and to vote and to increase their awareness. It is said that within the plan, the right to political participation means participation in several branches of government and if the legislation of any party of this Plan does not ensure the political rights of women, efforts should be made to adopt it in 3 years. Moreover, the Plan pushes governments to establish goals and strategies to increase the percentage of women's representation in elections and all other government branches. Moreover the Plan emphasizes the necessity of special efforts on official policy for equal participation and special activities to reach equal representation of men and women in important positions of governments.

Another important document on women's political participation is *Nairobi Forward – Looking Strategies for the Advancement of Women*. These strategies which have several articles on equality of women in social and political participation were composed by the UN in 1985 in Nairobi. *The Strategies for the Advancement of Women* emphasize that there is a need for extra efforts to ensure equality of women's participation, election, nomination and promotion in every branch of the executive, juridical and legislative bodies. The reason lies under the need for extra efforts for the governments that should pay special attention to much broader involvement and access of women is to provide and ensure human rights of women. Also women's participation in several decision making processes such as state and / or local levels should be secured. Until the desirable level of women's participation in decision making process is achieved, not only special activities should be undertaken but also

reports and papers should be prepared periodically to have control over fulfilling strategies.

Moreover these strategies include the necessity to increase the awareness of women about their rights to political participation – which are equal to men and women and include the right to vote and right to be elected - throughout several ways including the media, NGOs, unions, organizations and education. Additionally; it is pointed out that women's right to vote and to be voted for leadership and other positions within the unions, organizations and NGOs should be guaranteed and ensured. *Forward – looking Strategies for the Advancement of Women* also warn the governments to make necessary amendments to the law as soon as possible.

Additionally, the outputs of *First European Ministerial Conference on Equality between Women and Men* are another important step for equalizing women and men both in public and political life, was made by the Council of Europe in March 1986. In the outputs, it is articulated that, women's participation into the several aspects of the political life – which includes decision making process and representative levels – was far from satisfying the expectations and desires. The Declaration stressed that without having equal rights to political participation; women and men could never reach *de facto* equality among themselves. Therefore, there was a call for member states by the Council to ensure equality of the sexes in every aspect of life - especially in political life. Moreover, member states were urged not only to adopt necessary measures in the short term, but also to cooperate with women's NGOs and the media to increase the awareness of human rights of women and the equality principles of the Council. To do so, it was suggested and recommended that the

member states could form several policies on the issue and could include the principles of equality and women's rights in the scope of their educational system.

Also, in 1991, a *Platform on the Women's Role in Public Life* was held by the UN. It states that parties should ensure that all their citizens exercise their right to participate especially in the decision making process, in which the absence of women can be clearly seen, because the creativeness and the ambition of women can enrich the decision - making process. In the United Nations Platform, it was said that all members and all sections - such as school and / or media - of the society should work together to make future generations agree and accept the principle of equality. It was also offered that strategies that focus on encouraging women's participation should include; increasing the awareness of quality that women could bring to the decision making process; if it is necessary, creating targets and quotas to guarantee equal participation of men and women; try to receive support from experienced woman leaders; apply all the UN decisions and recommendations; and change the image – from stereotypes to fair and objective one - of women in the media.

Additionally, within the decisions of the Platform, it was said that denial of the right of women to participate in political decision making is a human rights violation. Unfortunately, in several countries, social politics do not meet the requirements of international conventions on the protection of human rights of women. However, to resolve our existing problems and have a healthy future, women should be part of every decision making process. To do so, the parties of the Platform should act in accordance with the UN decisions and recommendations.

Finally, in 1994, *Jakarta Declaration and Plan of Action for the Advancement of Women in Asia and Pacific*, which was held by *The Economic and Social Commission for Asia and the Pacific* (ESCAP), were done to support the equality of women - who lives in Asia and the Pacific - in the decision making process and power. In the Declaration, actions that were recommended to be taken are as follows. First of all, it was said that encouraging women and raise the percentage of their presence in legislative, executive and juridical bodies and ministries. To reach the minimum 20 percent, using quotas – where and when they are needed – were seen acceptable. Secondly, the necessity of further efforts on ensuring and encouraging women's equal participation by governments, unions, NGOs and several other groups were emphasized. Finally, it was stated that human rights of women and their full participation in several groups, unions, organizations, administrations and government bodies should be supported under every condition.

2.3. Freedom of Information and Mass Media

On women's freedom of information and equality in the mass media, in 1984, the Council of Europe – Committee of Ministers declared *Recommendation No. 17 on Equality between Women and Men in the Media*. It is noted that equality between men and women is one of the principles of the common heritage of the Community and also the importance of the power of the media on shaping people's attitudes. The Council emphasized its commitment to CEDAW and *the Convention for the Protection of Human Rights and Fundamental Freedoms* in order to recall the importance of the freedom of expression and freedom of information of men and women.

Moreover, the Council recommended that the media – both electronic and printed – can promote the equality between women and men by taking appropriate measures and steps as follows: Encouraging more research on the appropriate use of language and perception of the media. Providing to the media organs the measures that are taken and the recommendations of authorities on the equality of men and women. Increasing the control over and evaluations on TV programs which includes sexual stereotypes and any kind of discrimination and prejudices and also promoting educational programs both for adults and children. Also, it was pointed out that, encouraging women to work within all sections of the media organs and efforts to increase the awareness of the principle of the equality between men and women – and the problems that occur during the application of the principle are needed. Moreover more women should be invited as speakers in discussions and all other programs. Thus, the dignity and the prestige of women can be saved, sexual stereotypes on women can be tailed off and more positive and objective image of women in the media can be presented.

Additionally, in 1990, the Council of Europe, by Committee of Ministers, declared some measures and steps on *the Elimination of Sexism from the Language of the Media*. After emphasizing undeniable significance of principle of the equality between men and women, it was observed that there were some equality problems in reality. Sexism in the language and behaviors, which can be directly disseminated by the media, is one of the reasons that leads the supremacy of men over women and damage the equality between two sexes. Also, the Council pointed out that it welcomed any kind of initiatives to bring and adapt equality within the language of

the media. Finally the Council recommended to member states to support the use of appropriate – non sexist - language which reflects equality principle in the areas of media, administration, education and society.

Moreover, ESCAP's *Jakarta Declaration for the advancement of women in Asia and the Pacific* (1994) also focused on the place of women in the media. To reach the goal of promoting more positive and esteemed image in the media in order to influence, change and create policies that affect women, the place of women in society and the perception of the principle of equality of men and women. To do so, it was offered by the Plan of Action that women should not only be just an audience, but they should participate, create and access all the media. They should be a part of media's decision making process. Also the Plan emphasizes the importance of the using globalized media as a tool to spread out the equality of the sexes in everywhere. Additionally, the Plan emphasized the necessity of changing the mainstream approach of the media – such as representing women as a sexual stereotype. To reach those aims, foundation of regulatory corporations were recommended to watch and deal with discriminative media organs.

2.4. Slavery, Human Trafficking and Prostitution

On the slavery, human trafficking and prostitution, the first step was the adoption of the *Universal Declaration of Human Rights* (UDHR) in 10 December, 1948 in which article four points out the concept of slavery as follows “no one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.” In 1956, the UN declared *Supplementary Convention on the Abolition of*

Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery in which the definition and the prohibition of slavery clearly pointed out and the UN recalled the governments to introduce required measurements as soon as possible to eliminate and abandon debt bondage, slavery and serfdom. Moreover, the UN emphasizes that a woman should not be forced to marry in exchange of many or any material good. Also it was emphasized that a woman should not be exchanged with another person. In the following articles, the Convention emphasized the importance of registered marriages and deciding the minimum age of marriage for the protection of women. The first article defines slavery as “...the status or condition of a person over whom any or of the powers attaching to the right of ownership are exercised.” In the following article, it was stated that all parties promise to prevent all forms of slavery and prevent and suppress slave trade as soon as possible.

Additionally, on the human trafficking and prostitution, the UN continued to take the necessary steps. In this sense, during the *UN Conference for the Decade for Women: Equality, Development and Peace* in 1981, the UN recalled governments to take necessary measures such as ratifying and accepting *the Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others*. Also the UN invited member states to realize that women are human beings, neither a property nor a commodity and so every woman has the right to have protection against prostitution, kidnapping and rape. Finally the UN reminded that prostitutes, who could be treated badly or abused as a result of being prostitute, also have right to be protected against abuse and maltreatment.

Moreover, *Jakarta Declaration and Plan of Action* also emphasized that any kind of

prostitution should be named as 'illegal' and the laws and punishments must be reformulated. There should be more job opportunities for young girls and women outside the entertaining sector. There should also be rehabilitation programs and facilities for women who are rescued from prostitution. Additionally, it is said that more efforts are needed to change and affect social norms which causes double standards on the morality of men and women. Moreover, the Declaration emphasizes the necessity of bringing new policies and legislation by governments and competent bodies in order to reach the desired level for protection of women.

Furthermore, the UN held the *Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others*, which was in 1949, in which the parties agreed to give punishments to the ones who forced, caused and / or lead away another one to prostitute and exploited from prostitution. Also the parties – within the frame of the Convention - agreed to punish the ones who manage and finance brothels and the ones who rent any place for the purpose of prostitution of others. There were also several punishments suggested for the ones who indirectly participate to cause, to force and to lead away one person into prostitution. Moreover, the parties agreed to take necessary measurements and reformulate their domestic laws and provisions in accordance with the Convention. Extradition is also one of the issues that was pointed out. According to the Convention, the extradition should be guaranteed and granted accordingly to the domestic law of the states and criminals should be sued and punished in their own countries by their State courts.

Naturally, the parties of the Convention agreed to increase and encourage measures to prevent prostitution, to rehabilitate the rescued victims of prostitution through

several ways including educational and social services. Moreover, the Convention emphasized the necessity of controlling immigration and emigration movements in order to prevent human traffic aiming at prostitution and to protect immigrants and emigrants. Therefore, it was stated that the needed measures should be taken in diverse stations. The issue of repatriation was also discussed in the Convention and the conditions of repatriation of victims of human traffic who are forced into prostitution. In this regard, the parties should provide temporary - and basic – care of victims of human trafficking until having the agreement between two states and until repatriation of victims. Also, *the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others* recommended that there should be more opportunities for ones who are rescued from prostitution and looking employment.

2.5. Right to Marry

The right to marry of women was firstly recognized by the *Universal Declaration of Human Rights* in 1948. Article 16 of the UDHR focused the right to marry of men and women. In the article, it is said that “Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during the marriage and its dissolution.” Then the article continued emphasizing the importance of the consent of married couple as “marriage shall be entered into only with the free and full consent of the intending spouses” aiming to prohibit forced marriage without consent.

Additionally, in 1966, the UN also declared and adopted *International Covenant on*

Civil and Political Rights, in which Article 23 focused on the right to marry. According to the ICCPR, the family is the fundamental unit of human population and society, therefore it should always be protected and preserved. The right to marry of every human being, who reaches the marriageable ages, should be recognized. As the UDHR, the ICCPR also emphasized the importance of the free and full approval of spouses and recalled the necessity of taking appropriate measures and steps to guarantee the equality of men and women before the marriage, during the marriage and after the marriage.

Also, in 1967, the UN adopted the *Declaration on the Elimination of Discrimination against Women* which points out to guarantee the principle of equality between the couple – husband and wife. It is said that women must have the right to choose their spouse freely with full consent as men do. The Declaration also emphasizes equal rights of the sexes during marriage and in case of its dissolution. To do so, it is recommended that necessary measures should be taken by the governments. Additionally, in the dissolution of marriage, there should be equal duties and responsibilities of parents in order to take care of children.

Moreover, in 1979, the UN declared *the Convention on the Elimination of all Forms of Discrimination against Women* – as known as CEDAW- to eliminate and fight discrimination against women. On the right to marriage, the Convention supports and recommends that there should not be any discrimination against women in matters related with marriage and right to marry. To do so, it is advised that necessary measurements should be taken to give exactly same rights both to men and women to get married, to freely choose their partner without any pressure or prohibition, to

have the same responsibilities during – and in case of the dissolution of – marriage and to have the same rights on properties.

Since 1979, *CEDAW* has been declared 24 recommendations during 20th century. Especially *CEDAW's General Recommendation No. 21* was related to the equality between men and women while exercising the right to marry. *CEDAW* affirms the principle of equality for men and women not only in society but also in the family. The Convention recalls human rights of women are inalienable. On the status of women, the Convention says that nationality, which provides the base for the right to vote and to be voted for, of a woman should not be changed as a result of marriage or dissolution of the marriage. Even if the father of a woman prefers to change his nationality, this situation should not affect the nationality of woman, because an adult woman can only change her nationality with free and full consent. *CEDAW* also emphasizes that not allowing women to sign a contract or not allowing to have any property and / or business is not acceptable since those actions limit the freedom and rights of women. Also rights of women to choose her domicile should not be restricted. Adult women are capable to enter into a contract and choose the place to live; marital status of women can never be counted as an indicator of capability of women. The Convention says every woman including migrants and emigrants should have equal rights with their husbands or partners.

CEDAW reminds that women had a traditional and inferior role which is appropriated and appointed by society for years. However, the Convention requires that the equality between men and women in the family whatever their nationality, religion, legal system or traditions are should be provided immediately. Different

excuses such as customs, religious beliefs, ethnicity or money can lead to forced marriages or remarriages. However, the Convention says “a woman's right to choose when, if, and whom she will marry must be protected and enforced by law.” Moreover, it is discussed that there are still polygamous marriages in several countries in which not only the rights of women as human beings are violated, but also the Convention is violated. Those kinds of marriages violate the right of equality of women with men, and so the Convention prescribes strongly, prohibition and discouragement of polygamous marriages.

CEDAW also says that as a result of the fact that in some countries the husband is seen as the head of the family and ultimate decision maker, limitations on the rights of women occur. On the other hand, on the child care issue, the Convention recalls the Convention on the Rights of the Child and emphasizes “the best interests of the child shall be paramount consideration.” The responsibility of child care and the protection of the child should be shared equally by fathers and mothers. If fathers fail to share the responsibility of raising a child, then mothers' right to health, right to employment and right to participate in social activities would become under threat. The Convention emphasizes that healthy and stable family requires each of the spouses to have the right to work, right to health and right to participate in social events.

On the other hand, the Council of Europe by the Committee of Ministers recognized a *Resolution on the Equality of Spouses in Civil Law* in 1978. The resolution emphasized that although the principle of equality between spouses is accepted by the member states through international conventions, there should be a guarantee of

equality principle within other branches of law. It is advised that governments should take the necessary measurements in order to ensure that a spouse does not have advantage or better position than the other, for example treating the father as the head of the family is not acceptable. The Council of Europe ensures both parties of the marriage have equal right to freedom of movement, right to trade, right to work and right to study what they want. Also, it is said that the residence of the family should be chosen by the spouses together.

The Council of Europe also says that a woman should not be required to change the family name and take the family name of her husband by law. The possible options are listed as follows:

- *“Choice of a common family name in agreement with the other spouse, in particular the family name of one of the spouses, the family name formed by the addition of the family names of both spouses or a name other than the family name of either spouses.*
- *Retention by each spouse of the family name he possessed prior to the marriage*
- *Formation of a common family name by the operation of law by the addition of the family names of both spouses.”*

Moreover, it is advised that necessary steps should be taken for allowing both the mother and father to give their own family names to their children or the children that they adopt. All necessary measures and steps should be taken to grant both the father and the mother equal rights, responsibilities and obligations about their children – or adopted children. Mother and father have equal rights to represent their child legally and make decisions on education, health, name and religion of children. In the case of divorce, granted rights and obligations related to the common children

whether the child is adopted or given birth - should be given and shared without any discrimination based upon the sexes of the spouses.

Moreover in 1981, the Council of Europe – Committee of Ministers adopted *Right of Spouses Relating to the Occupation of the Family Home and the Use of Household Contents* which recognizes several rights of spouses related with home and household contents. It is said that there are still disparities between the laws of member countries related with the rights of spouses concerning the home that family lives in. The Council not only recalls the principle of equality between men and women but also emphasizes the importance of having equality. It is also noted that although the principle of equality among sexes is applied substantially within the member countries of the Council, it is needed to improve conditions related with the equality of men and women related with the family home and household contents. Additionally, it is pointed out that the states could adopt some common rules about the systems of co - ownership and / or co - leases of home in order to strengthen the right to occupation. It is said that any action related with the usage of the right to occupy family home and household contents by one of the spouses should not be without the consent of the other spouse. However, the right to occupy the family home can be given and assigned to only one spouse by authorities if there is dissolution of the marriage.

Additionally, 1995 dated *Copenhagen Declaration on Social Development and Programme of Action*, which was declared after the UN's *World Summit for Social Development*, talked about the right to marry of human beings. The Declaration said that the base of the society is the family which is - as a result of this – should be

protected, supported and strengthened. To do so, first of all, the family should be founded with full and free consent on the basis of equality of intending couple. Moreover, in the Summit, it was said that developing new social and economic policies, which focus on meeting the needs of members of family, should be encouraged. The importance of supporting mutual respect and tolerance not only between spouses but also among the society, and also promoting the principle of equality between men and women in the family were recommended by the World Summit.

On the right to marry of women, *Jakarta Declaration and Plan of Action for the Advancement of Women* also said that young women and girls need to be supported in several areas of life - such as being educated, finding employment, participate in politics and social life - to achieve their full potential. Therefore, the parties of the Plan of Action should take appropriate steps to eliminate both neglect and illiteracy and also exploitation of abuse of young girls such as rape, trafficking, prostitution and pornography. Moreover, it is said that, to reach complete protection of young women and girls, there is obviously a need to abandonment, elimination, discouragement and prohibition of child marriages. It is also recommended that it would be more effective if the states include some lectures on marriage in their educational systems.

On the other hand, in 1962, the UN created the *Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages* in order to promote human rights and freedoms for everybody without any discrimination. It is recalled that there are still some outdated marital customs which are obviously inconsistent

with both the principles of the UN Charter and the UDHR. It is said that all states must take appropriate steps and measures to abolish and eliminate such customs - such as allowing marriages and engagements of children, not allowing choosing the spouse - completely and immediately. To do so, there should be a government body in which records and registrations of all marriages made. The minimum age for marriage should be decided by legal authorities and no one shall be allowed to marry under this age. It is also recommended that necessary measurements should be taken to prohibit forced marriages, so if a person who wants to get married, that person should express his / her full and free consent to the authorities.

Moreover, the UN General Assembly declared *Recommendation on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages*, which said the family is the basis of the society, so every man and woman should have exactly equal rights to marry which includes full and free consent of spouses. The 1965 UN recommendations include other crucial issues like the concerns and provisions related with the minimum age limit of marriage and registration of marriages. The UN recommends that without their own expression and approval of full and free consent to get married before witnesses, marriages shall not be considered as legally accepted. The members of the UN should take necessary actions related to minimum age of marriage, which - by the way - should not be less than fifteen. Additionally, it is emphasized that all marriages must be registered until an authority which is designated by the governments and should be competent and confidential. The Recommendation has three basic principles which are highly recommended to be applied and adopted in required member states and parties within three years.

2.6. The Right to Found a Family

On the right to found a family, according to article 16 of the *Proclamation of Teheran - Final Act of the International Conference on Human Rights*, which was held by the UN in 1968, “parents have a basic human right to determine freely and responsibly the number and spacing of their children. Additionally, the UN prepared the Declaration on Social Progress and Development, in which the Proclamation of Teheran was recalled and remembered that parents have the right to decide the number of children freely in 1969.

Moreover, the *Convention on the Elimination of all Forms of Discrimination against Women* (CEDAW), which was declared by the UN in 1979, analyzed women's right to found a family. According to the Convention which not only ensures the principle of equality between men and women including same rights to decide the number and spacing of children freely, but also ensures giving the same rights to make the children exercise their rights such as access to education and information.

On the other hand, the UN organized the *World Population Conference*, which included population policies and recommendations in 1974. As a result of the Conference, the *World Population Plan of Action* was declared, in which it was said that deciding its own population policies is a right of every nation. However, the UN recommends that population policies should match universal realities like development, rights of women and rights of parents such as deciding the number and spacing of children freely. In the Conference, it is clearly said that spouses and all human beings have the right to determine the number and spacing of their own

children. Also the responsibilities of parents – couples or single individuals – on children to exercise their rights and meet the needs of their children are pointed out. As a recommendation, the UN suggests the governments should create a program to inform and educate the parents on family planning, deciding the desired number of children, child care and its responsibilities.

Additionally, in 1975, the Council of Europe Committee of Ministers declared *Resolution 29 on Legislation Relating to Fertility and Family Planning* which focused on family planning services, education in family planning, sterilization and economic and social assistance to families. The Legislation offered several recommendations for member states as follows: It is essential that enabling all human beings full right to have children as many as they want. If there is necessity of population policies, needs and rights of families should be considered during the creation of population policies. To make all parts of the society informed about family planning, it is needed that health and social services should include basic family planning. There is also a need of a very well distribution of family planning services in the country because sometimes citizens cannot reach those services as a result of lack of services especially in rural areas. It is also said that supporting and encouraging NGOs which are working for public health – and especially family planning - would be beneficial. It is also said that, if it is necessary, the creation of an authority which would coordinate and control action plans on family planning should be supported. Finally, it is recommended that all medical personnel should be encouraged to play an active role in and to contribute to the family planning process.

The Legislation emphasizes the importance of education of young people. Therefore,

it is supported to ensure school curriculum include basic level of family planning to increase the awareness of teenagers. It is also said that, it is necessary to allow couples information about family planning before the marriage and it is also necessary to increase the awareness of medical personnel on family planning, there could be some class or lectures given during medical education in faculties. Additionally, on the issue of sterilization, it is said that, the person who desires to get the operation should be very well informed and aware about the operation and its consequences. It is also supported to receive sterilization operation as a part of medical services.

Furthermore in 1990, as the part of 29th session of the Office of the United Nations High Commissioner for Human Rights, the UN declared the *General Comment No: 19 on the Protection of the Family, the Right to Marriage and Equality of the Spouses* related with article 23rd of the ICCPR. Article 23 of the ICCPR has four main points as follows:

- *The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.*
- *The right of men and women of marriageable age to marry and to found a family shall be recognized.*
- *No marriage shall be entered into without the free and full consent of the intending spouses.*
- *States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.*

General Comment No: 19 said that the concept of family may be different from state

to state; but when a couple / spouse is legally accepted as family, then the governments should provide protection for those group of people. The rights of unmarried couples and single parents are also discussed in the Obligations that those rights should be under the protection of states. Although there is no specified marriageable age for either men or women in the ICCPR, the Obligations points out that there should be minimum age limit for marriage. It is also emphasized that states should also allow possibility of religious marriages besides civil marriages. It is said that the right to found a family refers to giving birth and living together. Additionally it is said that when the parties of the Covenant and the Obligation create a population plan, that should not be either discriminatory or compulsory. Furthermore, the Obligation emphasizes the importance of ensuring the right to reunification of the family members who are separated as a result of political and economic reasons. To do so, internal and international level of cooperation among the parties of the Obligation are supported.

Lastly, UNFPA published the *Report of the International Conference on Population and Development in 1994* after the International Conference on Population and Development. This Report reaffirms the application and importance of human rights standards in every aspect of population planning and programming. On family planning, *the Programme of Action of the International Conference* includes four parts as basis for action, objectives, actions and recommendations. In the beginning, it is said that the main aim of any family planning should be to allow informed spouses to decide and have the number and spacing of children freely. It is emphasized that the key of the success of family planning is informed and educated spouses and also single individuals because education make all human beings act

according to their needs. Therefore, it is highly needed to have population education available in every single part of the states. It is also said that although birth rates have been decreasing in developed regions, there is not any decrease seen in the rates of developing regions which causes a rapid population growth in world population. Therefore, *the Report of the International Conference on Population and Development* says that it is very much and highly needed to make population programmes worldwide.

Six main objectives of the Report are listed as follows: Enhancing the time between births, and increasing men's participation and responsibility in family planning. Improving and increasing the quality of information, education and family planning advice. Making family planning services accessible and affordable to everyone within the society. Preventing undesired pregnancies as well as reducing morbidity and mortality rates. Finally help and educate individuals with respect to their right to have the number and spacing of children freely.

To do so, the Report offers several actions and recommendations to be taken by governments. All states are recommended to take steps to meet the needs of their population planning programmes and make family planning and reproductive health methods should be available by all as soon as possible. Governments must not violate any human rights and ethical standards during family planning. The couples, spouses and single individuals should participate in family planning services freely and voluntarily. NGOs could play a key role during increasing the awareness and access of human beings to reproductive health services. It is also recommended that

removing all barriers - such as legal, regulatory and medical barriers - to access, usage, information and utilization of reproductive health services. Leaders are also advised by the Report to show their support to family planning and reproductive health services. Finally, it is said that there should be more efforts expended to enhance the quality of family planning services and methods.

2.7. Protection of Motherhood

In 1967, the *Declaration on the Elimination of Discrimination against Women*, which included several issues related to women's rights – including the protection of motherhood, was announced by the UN. To prevent any discrimination against women including marriage, motherhood, and women's right to work is ensured by the Declaration. Women's rights, for instance, are not to be discharged in case of marriage, maternity and / or maternity leave and providing paid maternity leave are protected with the Declaration. Additionally, the Declaration includes protection for the right to return to the former position after maternity leave and the employers' obligation to provide childcare facilities.

Moreover, the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) emphasized the protection of motherhood. It said that there is a need for special protection for mothers during a fair and reasonable period of time both before and after the child birth. The ICESCR, which was prepared by the UN in 1966, says that during that period of time, the rights of working mothers should be protected and all mothers should receive special care before and after the childbirth.

On the other hand, the *Declaration on Social Progress and Development* (1969) says that social progress and development shall increase everybody's standards of living in accordance with human rights and freedoms. Therefore, the protection of mothers including measures to promote both welfare and health of women, and specially the rights of working women such as paid maternity leave and not to lose their employment should be provided by the parties of the Declaration.

Lastly, CEDAW, which was created by the UN in 1979 to prevent all forms of discrimination against women including the right to work, marriage and maternity processes, focused on the protection of motherhood. It is said that all states should prohibit dismissal during the pregnancy and maternity leave. It is also recommended that there should not be any loss of employment for women workers who are in maternity leave. It is also advised and recommended to provide a special protection for women workers during pregnancy besides the necessity of having childcare facilities in the work places.

2.8. Gender Discrimination

Gender discrimination was one of the most popular topics of international legal documents of the 20th century. To prevent gender based discrimination, there were several international meetings held and documents prepared. First of them was the *UN Charter*, which was declared in 1945 in order to confirm fundamental human rights and equality between men and women. The purposes of the UN are specified

by the Charter. Elimination of any kind of discrimination is one of the purposes of the UN. It is said that, to solve international problems and provide respect for fundamental human rights and freedoms, there should not be any discrimination based on sex, religion, race or language against anybody. It is also said that, elimination of discrimination is key for stability and well-being of nations.

Secondly, the importance of the elimination of discrimination – including gender based discrimination - can be seen clearly by the UDHR (1948), as a result of that importance first two articles point out the elimination of discrimination. It is said that all people are born both free and equally in terms of their rights and freedoms. Every person has all rights and freedoms that are specified by the Declaration – by the UN – because of the fact that they are human beings. Therefore, there should not be any form of discrimination based on religion, property, sex, origin, race or language.

Thirdly, two International Covenants, which were adopted by the UN General Assembly in 1966, talked about the necessity for prevention of discrimination – including gender based discrimination. *ICESCR* said that the parties of the Covenant (1966) guarantee that the Covenant is applied to everybody without any kind of discrimination as sex, origin, birth, colour or race. It is also said that the principle of equality between men and women is ensured by the parties of the Covenant in order to ensure every human being to exercise and has all economic, social and cultural rights that are listed in the *ICESCR*.

Additionally, the parties of the *Covenant on Civil and Political Rights* agreed to

guarantee that every human being under their rule exercise all of their rights and freedoms without distinction and discrimination of sex, colour, race or religion. The parties also agree to take the necessary steps in their legislation – where it is necessary - to ensure exercising rights and freedoms. Additionally, it is emphasized that the parties of the Covenant guarantee the principle of equality between men and women on exercising the rights listed in the Covenant. It is also said that all human beings are equal before the law and they should have the protection of law without any discrimination. Therefore, it is recommended that the law of the parties should forbid any kind of discrimination and should guarantee the equality of all human beings.

Moreover, in 1989, the UN Human Rights Committee declared *General Comment No. 18: Non-discrimination* for parties of the ICCPR. It starts with a recall that the principles of non-discrimination and equality before the law – includes equal protection before the law - are creating a base of the protection of human rights. Therefore, the Covenant ensures both non-discrimination and the equality – and equal treatment – of men and women before the law. It is said that any distinction based on sex, religion, political view, colour or race cannot be accepted. Therefore, the parties should take the necessary legal and administrative steps and measures to actualize the principles and eliminate any kind of discrimination and the conditions which create or promote discrimination. It is remembered that there is not a definition of discrimination made by the Covenant, but the Committee uses the term of discrimination and also wants the parties use it as follows: “any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin,

property, birth or other status; and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms.” Finally, the Committee says that every differentiation does not create or cause discrimination. If there are objective and reasonable causes for the differentiation, and if differentiation is made to actualize the Covenant, then the differentiation should not be counted as discrimination.

On the other hand, the Council of Europe declared the *European Convention for the Protection of Human Rights and Fundamental Freedoms* in 1950 to protect fundamental human rights and freedoms, which covered the notion of non-discrimination. It is said that all human beings should exercise their human rights and freedoms without any discrimination and distinction on any ground as race, religion, sex, opinion, origin, birth or property.

The American Convention on Human Rights, which was prepared by the Organization of American States in 1969, also underlined non-discrimination. In the Convention, it is said that, all human beings are equal before the law and have the right to equal protection before the law without any discrimination. Also, the Convention says that all the parties agree to respect fundamental human rights and freedoms of all persons, who are under their rule, without any discrimination of sex, religion, race, birth, colour, opinion, status or origin.

Additionally, *African Charter on Human and People's Rights* was adopted in 1981 by the Organization of African Unity on the protection of and respect for fundamental

human rights and freedoms. On discrimination, it is said that, the Charter guarantees and recognizes that every human being has the right to exercise of the rights and freedoms without discrimination for any reason of sex, opinion, birth, religion, race or ethnicity. Additionally, on the human rights of women, it is said that all governments should guarantee not only the elimination of discrimination against women, but also the protection of the human rights of women.

Moreover, in 1985, UN declared *Nairobi Forward – Looking Strategies for the Advancement of Women*, which started with recommendations that women's legal and constitutional rights should be provided, protected and not violated in any case. On gender discrimination, the Strategies said that it is needed to eliminate double standards that give superiority to men over women in every aspect of life. If there is a need for reform in legislation and administration to eliminate all forms of discrimination against women, then governments and NGOs should prepare a committee in which both sexes are represented equally. It is advised that constitutions, codes, laws and regulations must be revised to eliminate all forms of discrimination against women. Equality of human rights of women and their equal participation within every aspect of life should be protected. It is also said that every step must be taken to eliminate discrimination against single mothers, because the cultural and religious traditions of countries can not be accepted as a reason for making discrimination against women. Finally, it is recommended that governments can take several special actions, for instance founding facilities and supporting women's NGOs, to increase the awareness of women on the principle of equality and their human rights and freedoms.

Additionally, the UN Secretary General declared a report, which mainly focused on gender based discrimination, named as *Priority Themes: Equality: Elimination of De Jure and De Facto Discrimination against Women* after meeting of the Commission on the Status of Women in 1991. The report started with the importance of exercising equal rights of women, because it is said that imbalance between men and women is a result of the undeniable fact that there is discrimination against women. It was also said that there is an important difference between elimination of *de facto* - which means “actual” in English - and *de jure* –which means “according to law” in English - discrimination, and governments should take the necessary measures to decrease the gap. Therefore, the necessity of positive action policies is discussed and it is said that those policies promote gender equality. The positive action policies for women should promote and support non-discrimination in every aspect of life such as women's participation in the economy and politics, ensuring women access to technology, money, education and job opportunities. The Measures contour a good positive action plan as follows: The main aim should be the elimination of discrimination, and not to promote distinction against other sex. Secondly, the present problems and consequences of past discrimination should be solved as soon as possible since they are creating obstacles before exercising rights. Finally a good positive action policy must directly point at current economic, social and political structures that are expected to enable to remove consequences of past discrimination.

Also, the Council of Europe – the Committee of Ministers - declared a recommendation entitled *Legal Protection against Sex Discrimination* in 1985 in order to eliminate the existing discrimination against women. It starts with the emphasis on equality by legislation. It is said that men and women should have equal

rights to work, equal pay for work, equal opportunities and equal access to work. The equality of taxation and equal treatment between the sexes should be guaranteed by the legislation. Additionally, it is said that equal rights should be provided by civil law which should include both sharing and administration of family properties and also fulfilling and exercising the family responsibilities. Finally it is said that the governments should make their legislation to include remedies and sanctions to discourage discrimination. Moreover, there are several measures listed for states to provide equality such as encouraging equal participation of the sexes in education, work and all other aspects of life and to make social, economic and cultural environment promote equality. For instance, eliminate sex discrimination in the media and advertisements.

On the other hand, *Jakarta Declaration and Plan of Action for the Advancement of Women in Asia and the Pacific* (1994) says that there is discrimination against women related with their property rights, marriage and divorce in some countries. It continues with the emphasis on the fact that women's rights are human rights, so no discrimination against women is acceptable. Therefore, it is said that gender bias in every aspect of life should be eliminated. To do so, if it is necessary, there should be changes in legal systems, civil code, family law and constitution to protect women's rights as to right to own property, right to marry and right to divorce.

Moreover the Declaration focuses on elimination of discrimination against women with disabilities. To eliminate isolation and stigma against girls and women with disabilities is one of the objectives of the Plan. To do so, first of all it is said that the governments should provide equal rights to women with disabilities as other women

and take measures to increase the awareness of the society about people with disabilities. Additionally, it is recommended that, NGOs and organizations should support women with disabilities who succeed, overcome and face discrimination as a result of their gender and disabilities as a role model in the media and public to encourage other women with disabilities.

Furthermore, in March 1995, the UN held *the World Summit for Social Development* in Copenhagen. *Copenhagen Declaration on Social Development and Programme of Action of the World Summit for Social Development* was one of the resolutions that was adopted by the World Summit. The importance of elimination of discrimination and promoting tolerance and respect within the society were included by the Copenhagen Declaration and Programme of Action. It says that combating with racism, xenophobia, discrimination and intolerance in society can be done with enacting necessary laws. Long term barriers for women to work, education and access to all other services should be demolished by increasing their awareness on their rights and ensuring elimination of domestic – interfamilial – discrimination against female children. It is said that there are needs for encouraging women's participation in every aspect of life, removing discriminatory practices, supporting the media to promote the equality of people and the need for respect and tolerance within the society and finally revising the educational system to eliminate all forms of discrimination.

In addition to these, the *World Conference of the United Nations Decade of Women*, which was held in 1981 and focused on equality, development and peace, talked about gender based discrimination. The report of the World Conference said that

some part of female population is facing discrimination based on their sex and race which causes them also to suffer from poverty, poor health, unemployment and lack of education. Therefore, there are calls for the UN and governments in the World Conference. The call for the UN says that the UN agencies should take essential steps and measures to overcome discrimination based on race and sex in their programmes everywhere. On the other hand, the call for the governments – especially member states - says that they should work on elimination of discrimination against women based on their race and sex; and also promote women's rights and integration in every area of life.

Lastly the *UN's World Programme of Action Concerning Disabled Persons*, which was held in 1982, focused on discrimination against women with disabilities. It said that the consequences of disability and inadequacy are serious for girls and women because even a woman without disability face several discrimination, disadvantages and differentiation that affects their lives. In such a world, having physical or mental disability causes more serious problems for women during exercising their basic rights and freedoms and also taking part in social life. Therefore, it is said that the governments and NGOs have responsibility to make women with disabilities incorporate into the society with necessary action plans.

2.9. Conclusion

To sum up, as it was emphasized before, some basic rights of women - basically political and civil rights, in other words women's first generation of human rights are primarily and predominantly focused than the other basic rights of women in

international legal documents and in international conferences which are basic sources of international law. Within the scope of women's first generation of human rights; the right to political participation, freedom from gender based discrimination, right to marry, right to found a family, protection of motherhood, slavery, human trafficking and prostitution and finally the freedom of the media and access to information are tried to analyze in this chapter. In this sense, this chapter includes the analyzes of six different international documents on the right to political participation, three different documents on the freedom of information and mass media, eleven separate international documents on the right to marry and seven diverse legal document on the right to found a family. Moreover, the chapter also includes the analyzes of fifteen different international documents on the prevention of gender discrimination, four separate documents on the protection of motherhood and four diverse international legal documents on slavery, human trafficking and prostitution.

The main purpose behind these analysis is to prove that there are not only more conferences held while there were more international legal documents such as conventions, declarations, action plans and recommendations signed, advised or adopted related with the first generation of human rights of women; but also more effective and binding principles, obligations, provisions, guidelines and regulations were recommended and prepared to guarantee the protection of the first generation of human rights of women. In other words, this chapter is a simple attempt to prove that first generation of human rights of women had been more effectively protected and guaranteed in terms of content and amount. Moreover, it can be seen that the international legal documents related with the first generation of human rights of

women are older than second and third generation of human rights of women which make first generation human rights appears like more important in international law.

After try to examine the first generation of human rights of women in international legal documents and international conferences of 20th century in detail throughout this chapter, there will be an attempt to analyze women's second generation of human rights in the next chapter.

CHAPTER III

THE SECOND GENERATION OF HUMAN RIGHTS OF WOMEN

3.1. Introduction

In this chapter, economic, social and cultural rights of women – second generation of human rights of women – in international legal documents, declarations and conventions will try to be analyzed. The chapter consists of five main parts where each one focuses on international documents on women's basic economic, social and cultural rights as follows: right to access food; labour rights and right to work; social rights; right to health and finally right to education. In this framework, 33 documents – including charters, conventions, action plans, declarations, strategy plans, recommendations, legislations, comments and other documents of the 20th century related with basic economic, social and cultural rights of women are analyzed in order to show that second generation of human rights of women had not been focused neither primarily nor predominantly in terms of content, amount and historic.

3.2. Right to Access to Food

On the right to access to food, *the Food and Agriculture Organization of the United*

Nations (UN FAO) held the *World Food Conference* in Rome in 1974, which recognizes that besides preparing the food for their family, women are involved substantial percentage of food production in rural areas. Therefore, the Conference – in which 135 states' representatives participated - convokes governments to encourage and include women's participation in production and nutrition policies. There is also a call for the governments to give equal rights to men and women on agricultural education, food production, techniques on marketing and distribution. Also, it is said that men and women should have equal responsibilities in the fight against hunger. The final point that is recommended by the Conference to governments on food and women is, since women are crucial in the process of raising the next generations, their rights to access all social services should not be limited.

Additionally, during the UN conference for the Decade for Women, the *Second World Conference on Women* (1980) recalls that a very high percentage of women in developing countries are agricultural workers and they are responsible to feed – prepare the food for - their family on principle. Hence, the Governments are called to provide necessary access to agricultural education, production, techniques and technologies to rural women. Moreover, the Governments are invited to increase and canalize women's productivity and participation in other sectors too.

Moreover, in 1992, the WHO and FAO collectively held the *International Conference on Nutrition and announced the World Declaration on Nutrition*. After emphasizing the importance of women's education, their participation in decision making process, the necessity of equality between men and women; it is said that the

right to food access of women and female children is crucial. As a human being, the woman has right to adequate nutrition - especially during pregnancy and breast feeding period, women should be fed properly and adequately. The nutritional well-being and even the health of family members - and society – are directly related with women; but this should not be the only focus on women's nurturing role. It is said that women should balance several roles in the society. For instance, it is a fact that women have a crucial economic role in agricultural and development of rural areas as producer of food. Moreover, the Conference says that the equality between men and women includes sharing responsibilities and work within the family. The right to food of a female child should not be violated and girls should have equal and adequate nutrition as boys do. It is also said that, there could be nutritional education for men in order to bring equality within the family.

3.3. The Right to Education

In 1960, UNESCO adopted *the Convention against Discrimination in Education*, which entered into force in 1962, on the right to education. The Convention recalled the principle of non-discrimination and reminded that every human being has the right to education. It said that UNESCO aims at collaboration among states to promote both equal treatment for everybody and the equality of opportunity in education. The Convention emphasized that any limitation and / or distinction aims to prevent equality in education as a result of any reason is called discrimination. Blocking access to education of anyone or any group at any level is not acceptable.

On the other hand, the Convention lists specific situations where founding of a

separate educational institution is not regarded as discrimination. Firstly, if there are same quality of equivalent courses provided and there are not any limitations to access to education; the foundation of educational institutions for the education of only one sex is not accounted as discrimination. Also the establishment of private educational institutions - without the aim of exclusion of a specific group of students – in addition to public institutions is not seen as discrimination. Finally, if there are the same standards and level of education provided; the foundation of separate educational facilities, in which attendance is optional and due to the wish of attending student, by any minority group is not accounted as discrimination.

To eliminate, prevent and prohibit discrimination in education, the parties agree to remove old fashioned provisions, practices and instructions that cause discrimination. Also the parties agree to ensure non-discrimination based on sex either in the acceptance of students in educational facilities or during the payment of school fees or granting scholarships. Additionally, the Convention parties guarantee not to allow students who belong to only one minority group to face any restriction, limitation or discrimination.

Moreover the parties agree to formulate and apply their own national policy to provide equal opportunity and treatment in education. To do so, the Convention recommends that primary education should be free and compulsory for every citizen. Secondary and higher education should also be available and equally accessible to everyone in the society. There should be the same standards and quality of education in every public education facility. Lastly, it is recommended that there should be some institutions for ones who do not get any or not complete primary education.

Finally, it is said that although respect for rights and liberties of parents to choose the institution that their child would attend; it should not be forgotten that right to education of any child cannot be violated as a result of any reason. It is also reminded that minorities have their own rights to found an educational institution in which attendance is optional and where they can teach their own language, customs or religion. However, these rights should not be used to exclude a minority groups from the whole society and the standards of education should not be lower than general standards of education of that country.

Furthermore, in the *World Conference on Women of the UN Decade for Women*, which was held by the UN in 1980, the right to education was emphasized as a basic human right and that every human being should have the right to education at all levels irrespective of their sex. Discrimination against women is declared to be unacceptable and it is noted that in several countries the education level of women is unfortunately lower than men as a consequence of past discrimination against women. Non formal education institutions and programmes are also needed to ensure equal educational opportunities for both sexes.

To eliminate discrimination against women, the Conference offers several measurements to the governments. First of all, to eliminate illiteracy of women, special programmes should be adopted. To raise the percentage of education budget would be beneficial in the fight against discrimination in education. If it has not been done yet, then allowing the education of minority groups in their mother tongue is necessary. There should also be equality for men and women in training and gaining

qualifications which would help women to get employment. It is also recommended to make education free and give scholarship to girls who are from poor families which would remove the financial barriers for girls' education. Finally, the Conference urges the parties to eliminate and remove all gender stereotypes from all materials that are used in education.

On the right to education of women, *Jakarta Declaration and Plan of Action for the Advancement of Women* also supported equality of women to access education and literacy. The illiteracy of women is one of main problems that should primarily be solved. Moreover, gender discrimination and stereotypes in education should be eliminated to decrease the gender gap in education. To do so, revision of course contents and syllabus, where there are no gender stereotypes, increase the awareness of parents and lecturers, and create action plans focused on girls' education are recommended. It is also advised that teachers and lecturers could periodically take seminars on gender in order to sensitize them and their students through education.

Additionally, 1995 dated *Copenhagen Declaration on Social Development and Programme of Action*, which was declared after the UN's World Summit for Social Development, in which access to education by all is one of major concerns. To ensure access to education at all levels, to provide lifelong opportunities for education and to remove all possible barriers against the right to education are the first steps that should be taken to eliminate discrimination against women in education. Also, increase the awareness of society on gender equality and sensitivity in education through the media; and clean out the language of media from pornography, violence and gender stereotypes while promoting tolerance and respect

in society are other measures that are advised by the Summit. Moreover there are more recommendations made for the sake of poor people and regions. To expand preschool education to overcome disadvantages that children who are from poor families face after starting their primary education; to improve opportunities for the ones live in poverty to continue their education and lastly to improve the number and the quality of schools, teachers and social services in underdeveloped regions are presented as basic steps to protect the right to education of people who live in poverty.

3.4. Social Rights

On the social rights, European Community took crucial steps during the 20th century. First of all, with the acceptance of *European Social Charter*, which was adopted in 1961, besides guaranteeing the political and civil rights of their populations, members of the Council of Europe agreed to ensure exercising social rights without any discrimination based on colour, political opinion, sex, ethnicity, religion or race. The Council of Europe also prepared an additional protocol to the Charter that includes new measurements for member states in 1988. The parties to the European Social Charter accept to shape their policies and action plans with a particular attention to protect women's rights. The Charter reminds that every human being has the right to work freely everywhere. Women employees have the right to special protection especially during pregnancy and mothers should be protected regardless of their marital status. In this context, the parties agree to provide social benefits and paid leave before and after child birth. To protect the right to work, dismissal of women during the pregnancy and / or maternity leave is not allowed. If it is

necessary, then mothers should be allowed to take special time off in order to care for their babies. To provide the right of women to economic and social protection, the parties should take necessary measures and steps such as establishment of appropriate services.

In the additional protocol, it is said that men and women should have equal rights to opportunities and treatment in every aspect of life including the matter of employment in which no discrimination can be acceptable. Women employees could have special rights as a result of their special conditions as pregnancy and maternity leave; but, those provisions and practices shall not be seen as negative discrimination. The parties of the Protocol agree to recognize and promote equal rights to both sexes in terms of career development, working conditions, training, guidance, access to employment and protection against getting fired.

Moreover, the Council of Europe declared the *Directive on the Implementation of the Principle of Equal Treatment for Men and Women in Occupational Social Security Schemes* in 1986 on the equality on social rights of men and women. It starts with the necessity of application of both the principle of equal payment which means getting equal payment for equal work and also the principle of equal treatment which brings equality for two sexes in their social security rights as well as equality in the right to work and promotion. To ensure the principles of equality and define its scope clearly, it is said that there is a need to adopt legislative and administrative provisions. Also, it is said that the principles of equality between men and women should not be considered as a chance to violate special rights to protection of women during pregnancy and maternity.

The aim of *the Directive* is to apply social schemes to ensure the principle of equality in the workplace. It is said that the Directive should be applied to all workers, including self-employed, disabled, retired workers as well as others who lost their jobs as a result of maternity, illness and accident. The social schemes are agreed to provide protection; which includes social benefits like allowance and health care; during illness, aging, retired, unemployed and / or accidents. It is also emphasized that there should not be any gender based discrimination in access to social schemes, conditions of access to social schemes and also contribution to social schemes.

Another principle of the Directive emphasizes that member states are expected to take the required steps and measures to ensure removal of all provisions that are somehow contrary to the principle. It is also said that existing schemes should be revised to check gender equality. Additionally, it is said that the citizens of member states and the parties to the Directive should have the right to bring a case before the court when they are affected or injured by any failure of application of the principle of equality.

Finally, the last articles of the Directive focus on the possible delay in application. The Directive says that there could be compulsory delay during the implementation of the principle of equality – social schemes - in the following situations: If there is disagreement during specifying the 'pensionable age', the scope of the right, survivor's right to get pension and / or its duration; then it is said that a short delay can be acceptable and understandable.

Furthermore, in 1987, the Committee of Ministers adopted recommendation for member states on *Making Old Age and Invalidity Benefits Generally Available*, in which the members of the Council of Europe agreed that when invalidity and old age benefits are generally available, social progress would go on to the next level in Europe. *The Recommendation on Making Old Age and Invalidity Benefits Generally Available* of the Council of Europe reminded that although the rights of human beings are determined and designated before; there are opportunities to extend human rights – especially the social rights. It is said that, there are undeniable developments related to social rights, however there are still some persons who are excluded from the benefits of old age and invalidity among members of the Council of Europe. Therefore, it is recommended that to make social benefits available to every human being without any discrimination, governments should promote and provide social security systems and enable everyone to exercise their rights to old age and invalidity.

On the other hand, on social rights, the parties of the OAS signed the *Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights - Protocol of San Salvador* in 1988 to adopt all necessary measures to observe and protect the human rights both domestically and throughout the Organization. To realize the rights that are recognized by the Protocol, if the necessary measures have not yet been taken, the parties agree to take required legislative, administrative and regulatory provisions. Additionally, the parties guarantee that there would not be any discrimination against anyone based on any reason. On the right to work, the Protocol says that the parties agree that everyone can exercise this right freely; and to do so, the parties of the Protocol ensure adopting

essential measurements to remove all barriers for women and disabled persons. Moreover; the right to social security is also taken under the guarantee of the Protocol. The right to social security is providing protection to human beings from possible physical or mental consequences of being disabled and / or aged. The right to social security also involves the protection of family members after the death of rights owner. Moreover, the rights guarantee that employees have basic health care, allowance in the case of work accident or disease and paid maternity leave for women.

Finally, on social rights of human beings, the 1995 *Copenhagen Declaration on Social Development and Programme of Action*, which was declared after the UN's World Summit for Social Development, said that human beings must be protected from poverty, unemployment, disability, illness, violence, disasters, discrimination, getting fired as a result of pregnancy and / or maternity by social systems that provide legal protection. To do so, it is said that social action plans and programmes, which provide basic protection and social insurance for the needy ones, should be strengthened and expanded. To develop innovative strategies which would make social protection available to all and help human beings to become self-sufficient individuals is also offered by the Programme in order to eliminate social stigma and / or isolation. It is also said that the support of NGOs, organizations and voluntary associations is crucial to strengthen the social programs. Moreover, it is highly recommended that the social support and protection programmes should especially protect women and shall be designed to meet women's special needs that occur as a result of multiple responsibilities and roles given by society.

3.5. The Right to Health

The right to health was one of the most focused subjects of international legal documents and international conferences. According to *European Social Charter* (1961), to ensure exercising the right to health of their citizens, the Council of Europe members decided to take all measures in close cooperation with NGOs. To remove causes of illnesses, to provide special facilities for protection and promotion of public health and to prevent diseases are recommended as necessary steps for the protection of health. The parties also agree to ensure that when a person can not provide for his / her medical care, it is guaranteed that he /she would get adequate medical care and assistance adequately. To receive the assistance, on the other hand, is ensured that does not affect the exercising other social rights of individuals.

Moreover, in 1990, the Council of Europe declared recommendation concerned with *Medical Research on Human Beings* through the Committee of Ministers. The Council of Europe defines medical research as “any trial and experimentation carried out on human beings, the purpose of which or one of the purposes of which is to increase medical knowledge.” In the beginning, it is said that the Council of Europe is aware that advancement in medicine requires experimentations; and recognizes the right of human beings to accept or reject experimentation. To force anyone to accept medical experimentation is unacceptable. It is said that experiments should not be contrary to ethical principles and human dignity; and also there should be legal provisions to control them.

The Council of Europe lists several principles on medical research and health of human beings. In those principles, it is said that the protection of health of the ones who accept to undergo the research should be prior to the medical research. If there are any risks of the research, then subjects must be informed and warned about those risks. Additionally, the methodology and the aim of the experimentation should be told to subjects. It is said that, without his / her own free consent no one should be allowed to participate in the experimentation. The persons, who freely and willingly participate in the experimentation, can withdraw and give up experimentation any time. Moreover, there are strict restrictions on medical experiments on pregnant women. If the researches anyhow affect pregnant women or her unborn child, then there should not be any kind of medical experimentation or scientific research unless it is claimed that the same outcomes can not be reached by experiments on non-pregnant women by the scientific community.

Additionally, to allow experimentations on human beings, medical researches should match the scientific criteria and should have sufficient evidence on the safety of subjects. The research must be executed under the responsibility of independent professionals like doctors. It is also said that financial benefits should not be offered to affect the consent of human beings. Furthermore, it is said that if there are any injury or loss as a result of medical experiment, then the subject – or his / her guardian or dependent can claim compensation. In that case, if the research system does not pay compensation, then the states should provide the guarantee for compensation payments. Finally, it is reminded and summarized in the last principle that the governments should not allow any medical experimentation and research in the following situations: if the experiment is contrary to law and / or ethics,

unplanned, not designed in accordance with proper scientific methods and / or do not provide adequate amount of proof about its safety.

Additionally, the parties of the *International Covenant on Economic, Social and Cultural Rights* (1966) recognize that every human being has the right to health mentally and physically. To do so, it is said that the scope of right to health should also include several crucial points as follows. To meet the required medical care, services and assistance in case of illness; the aim of the parties should be to provide highest existing standards and conditions in health. There are more efforts needed to decrease infant mortality and stillbirth rates. Environmental hygiene should be provided, protected and encouraged by special social policies in cooperation with civil society organizations and NGOs. Lastly, it is said that there should be special efforts for prevention - and in the case of their occurrence to control - of epidemics and diseases.

Also the *Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights - Protocol of San Salvador*, which was adopted in 1988, talked about the right to health. The section related to the right to health starts with the recognition of everyone's right to health care. Every human being has the right to protection of their health and right to have highest level and standards of mental and physical well-being. It is said that the parties agree that health is a public good which should be protected and not violated. Therefore, to ensure the right to health, the following measures need to be taken in the shortest time possible. Basic health care and medical assistance should be made available to every single individual and all families in the society. The prevention of diseases and

epidemics is crucial, so the society should be educated and informed on the issue and the governments should take all necessary steps. The medical care and assistance of the ones who are disabled, elderly, vulnerable and / or who suffer from poverty should be provided for by the governments. Finally, the immunization of the public against infections and diseases is agreed that under the responsibilities of the participating governments.

Moreover, the WHO declared a statement on women's health in 1989. In WHO – UNICEF joint statement, entitled as *Protecting, Promoting and Supporting Breast Feeding: The Special Role of Maternity Services*, the importance of women's health was recognized and so the parties were advised to protect women's right to health care. Although there are several responsibilities given to women such as burdens of child, health and nutrition of their family; there is not enough support and / or assistance for women, so maternal mortality rates and women's health are alarming in many countries. It is said that besides the physical and mental health of women, there is also discrimination against women's social well-being in some countries. Therefore, there is need for making health policies and take state action - and other policies that could affect women's health in some respect – non-discriminatory and revise existing programmes to eliminate any ongoing discriminations.

WHO recalls the parties to take necessary steps to eliminate discrimination and protect women's right to health. To do so, first of all, it is said that the importance of women's health should be recognized. Then, necessary steps related with the health risks special to women such as maternal mortality and pregnancy should be taken. For instance, the Organization says that to increase awareness, special brochures that

explain those risks can be published and distributed to women. During the formulation of new social health programmes and the evaluation of existing ones, the governments should cooperate with NGOs and other organizations to protect women's health. Governments should guarantee discrimination against women or between the sexes while using medical care and social services.

Furthermore, in 1992, the WHO Regional Office for South East Asia also organized a health assembly and prepared a report, named "*Women, Health and Development in the South East Asia Region*". The report says that half of the world's population are women and reminds the article from the Constitution of WHO that "the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being." The report emphasizes that the scope of women's health does not only include reproductive health, women's rights mean and require protection of health throughout life. In this context, the WHO calls member states to take necessary actions to examine the existing social mechanisms and health programmes in order to understand whether they include appropriate provisions and enforcement on the protection of women's health. Additionally, it is said that there should be women's participation during the foundation of new programmes and the revision of existing ones because while making legislative and administrative changes related with women's health, the absence of women is seen as unacceptable. Also, the WHO insistently recommends member states that their delegations who participate in any WHO event, such as the World Health Assembly, should include women members – at least one woman.

On the right to health of women, *Jakarta Declaration and Plan of Action for the*

Advancement of Women also includes a chapter on the promotion of equal access to health in order to focus on guaranteeing women's health throughout their lives, providing health needs properly and adequately, elimination of female feticide, prevention of discrimination – particularly girls' and women's rights for access to social security and health care systems, decreasing maternal mortality rates and revision of social security and health care systems. It is said that supporting gender equality among spouses would prevent gender discrimination which occurs as a result of societal expectations and traditions such as women should take care of their families' health and nutrition. Additionally it is said that women's full participation and access to health care should be protected, strengthened and enacted in accordance with the resolutions, action plans and recommendations of UN, WHO, UNICEF and several other NGOs.

Additionally, on the right to health, 1995 dated *Copenhagen Declaration on Social Development and Programme of Action*, which was declared after the UN's World Summit for Social Development, said that the access of people who suffer from poverty, women, disabled persons and vulnerable groups to health care and social services should be improved and protected. It is needed to make low income individuals and communities' access to basic medical care services freely or at least by paying affordable costs. It is recommended that the governments - through their Ministry of Health - should cooperate with health care workers, NGOs, other civil society organizations and women's organizations on women's health. In this context, it is said that the issues like reproductive health, pregnancy, maternity, child care, breast feeding, the right to access to health, the right to protection of health and family planning can be discussed to make those easily and fully accessible, available

to and familiar with all women.

On the other hand, the *CEDAW*, which was declared by the UN in 1979, analyzed women's right to health. *CEDAW* emphasizes that the parties of the Convention agree to take all necessary measures and steps to make the principle of equality between men and women being fully recognized and realized by all members of their societies. It is also agreed that no gender discrimination should be allowed in the fields of right to health and access to basic health care services. The parties agree to ensure that every woman should exercise their right to protection of health and right to access mental and physical health care services, information and facilities including rural women, disabled women and women who suffer from poverty. Moreover, the governments should ensure to provide women special pregnancy and maternity services.

Moreover, in 1990, CEDAW declared *General Recommendations no. 15* entitled Avoidance of discrimination against women in national strategies for the prevention and control of AIDS, which focused on the women's side of AIDS and the strategies in order to handle it. In addition to the UN and WHO reports, it is said that, there should be non-discrimination based on gender in health and exercise of the right to health particularly in the case of HIV / AIDS. General recommendations on AIDS and women includes that the governments should put out extreme efforts to make the society - especially women - aware and informed of risks, effects and the symptoms of HIV / AIDS. State health policies and / or social programmes to control and fight against AIDS are recommended to focus on women, women's rights and needs because of women's role in reproduction and women's subordinated and secondary

status in some societies. Additionally, it is advised that women should participate in the fight against AIDS as educators, medical workers and care providers.

Additionally the UN Office of the High Commissioner for Human Rights declared *General Comments No. 20*, which was related with the obligations of states related to article 7 of the ICCPR, in 1992. Article 7 of the ICCPR says that “...no one shall be subjected without his free consent to medical or scientific experimentation.” Any medical and / or scientific experiments without freely expressed consent are prohibited. The Obligations, which are prepared by the UN in 1992, said that to ensure this right of human beings, there are more efforts and special attention needed to prevent any action and secret intention to make experimentation on people. It is also said that some persons need special protection from such experiments since they are not able to give their free consent such as disabled persons and the ones under imprisonment. It is said that, the governments should not allow those persons to be subjected to any kind of scientific or medical experimentation which may damage their health.

Furthermore, the UNFPA held the *International Conference on Population and Development* in September, 1994. The Programme of Action of the International Conference on Population and Development focused on women's health and motherhood. Two objectives were pointed out on women's health, improving both the health and nutritional status of women in society and also promoting safe motherhood and health of women by decreasing maternal mortality rates. To do so, the Programme of Action recommends several measures and actions.

All countries are recommended that to reduce their mortality rates to the level that maternal mortality and morbidity become insignificant and not a public health issue. It is said that there are huge gaps in mortality and morbidity rates among countries, regions and groups as a result of various level of socio – economic developments. It is recommended that all states must take actions to make basic health care services include maternal health. To do so, all medical services should have professionals on women's health and all women are assisted by professionals during child birth. Moreover, it is advised to create programmes for men on reproductive health, maternal health, safe motherhood, child care and family planning as well as programmes for women on nutrition, safe motherhood, pregnancy, post natal care and family planning. On the other hand, it is said that abortion should not be seen as one of the family planning methods whether abortion is allowed or not.

Lastly, the UN General Assembly declared a resolution concerning *the Protection of Persons with Mental Illness and the Improvement of Mental Health Care* in 1991. It said that there should not be any discrimination based on any reason, so human beings with mental illness should not be isolated from society and sterilized in order to be treated. It is also said that no one should either take advantage of their special conditions or discriminate against them. Additionally, it is said that no medical research or experimentation should be done on persons with mental illness without the free consent of their dependents and / or their guardians.

3.6. Right to Work / Labour Rights

On equality of the right to work – labour rights – for women and men, the ILO met in

1951 in Geneva, where the *Convention 100 on Equal Remuneration* was accepted, and says that 'the principle of remuneration' for equal work of men and women workers should be supported. To specify the main aim of the Convention, the ILO firstly makes the definition of remuneration which is “ordinary, basic or minimum wage or salary and any additional emoluments whatsoever payable directly or indirectly, whether in cash or in any kind, by the employer to the worker and arising out of the worker's employment.” Therefore, it is said that the equal remuneration principle remarks equality between men and women workers without discrimination. The parties of the Convention agree to guarantee the application of the principle to all workers. To do so, it is said that the states can revise their laws and regulations; and guide workers to make collective agreements with employers. Additionally, it is said that, the parties agree to cooperate with several unions and organizations to make the provisions and equality principle effective.

Additionally, in 1958, the ILO decided to adopt several proposals and provisions, which are also decided to be formed as an international convention, on the discrimination against women in employment and occupation. In the *Convention III on Discrimination in Employment and Occupation*, the articles of the UDHR are recalled that all human beings are equal and any discrimination as a result of any difference or distinction is a violation of human rights. After making the definition of discrimination, the Convention points out that to determine any discrimination - based on any reason - in the workplace, worker's unions and organizations can cooperate with relevant authorities. However it is said that, some preferences, which occur as a result of job requirements, should not be named as discrimination in the workplace. Additionally, it is said that the parties of the Convention agree to declare

a national policy or an action plan to provide and promote both equal opportunity and treatment for men and women in employment and also the elimination of gender based discrimination in the workplace.

Moreover governments are recommended to take some actions to make their policies and / or action plans on the equality principle commonly accepted. First of all, the ILO advises to cooperate not only with the workers' unions and organizations but also employers' organizations to support their policies on equality. Secondly, the foundation of educational programmes and revision of existing legislations, regulations and administrative provisions are offered to the parties. Finally, it is advised that the member states should observe the application of the Convention and its principles including the equality principle in the workplace; to do so the Convention advises to establish appropriate administrative authorities.

On the other hand, *Treaty of Rome*, which was the founding document of European Economic Community in 1957, included enforcement of the principle of equal remuneration, which says that men and women should receive equal amount of payment in return for equal amount of work. There is also a definition of remuneration made by the Treaty as direct or indirect payment, which can be in cash or kind, from employer to the workers in exchange for workers' labour. It is also said that to apply the principle of equal remuneration; different and / or similar works should not be valued as same work during the calculation of remuneration based on spending time at workplace.

Also, in 1975, the EEC announced the *Directive on the Approximation of the Laws of*

the Member States relating to the application of the Principle of Equal Pay for Men and Women in order to say that Article 119 of the Treaty of Rome, which covers equal payment in return of equal work for men and women, was crucial for the foundation and running of existing European Common Market. Therefore, it is said that member states have responsibility to make their regulations and provisions match with the principle. Additionally, it is said that while foundation of social action plans / programmes to make working and living conditions correlate, it is realized that special attention should be given to women such as women's access to work, working conditions and payment. To protect the rights of workers within the EEC, it is said that the principle of equality must be supported and differences between countries and regions should be eliminated.

The Directive says that during the remuneration, the same criteria should be used for both men and women in order to guarantee non-discrimination based on the sex of worker. Moreover, it is recommended that the governments should take necessary legal measures to protect workers in the case of failure of the principle's application. Member states are responsible to eliminate all discrimination within their laws, provisions and / or regulations based on sex / gender since they can somehow affect the application of the principle of equal remuneration. Additionally, to prevent all other agreements and work contracts, which are contrary to the equality principle, is under the responsibility of member states. That is, the EEC says that the parties of the Directive must guarantee the equality principle for the remuneration.

Additionally, in 1976, the EEC adopted another *Directive on the Implementation of the Principle of Equal Treatment for Men and Women as Regards Access to*

Employment, Vocational Training and Promotion and Working Conditions since “the principle of equal treatment for men and women in employment” is one of the key objectives of the European Community on association of working and living conditions. In the Directive, the purpose is specified as making member states to apply, support and encourage the equality principle between both sexes concerning labour rights, access to employment, promotion and training. To ensure its implementation, it is said that the Council would define its scope, provisions and necessary arrangements. After full recognition of the principle, there should not be any direct or indirect discrimination based on sex. Additionally, it is said that the Directive supports the provisions which aim towards both the protection of women's rights, especially during pregnancy and maternity, and also promotion of equality between men and women by elimination of established inequalities. Women were to be able to work at any level of any sector according to the Directive.

In this regard, the Directive urges member states to remove all regulations and provisions which are contrary to equality principle. If any individual contract or collective agreement is prepared contrary to the principle, then those agreements should be abolished as soon as possible and be declared as null and void. Furthermore, the Directive says that besides employment; there should be the equality principle in vocational training programmes and working conditions. To do so, the Governments are also recommended to take the necessary steps and measures to remove related provisions which are contrary to the equality principle. It is also advised that member states are responsible to take required legal actions concerning the applications on the failure of the principle. It is also said that the governments should provide guarantee for the employees in order not to be fired as a result of the

reaction to the failure of the principle of equal treatment for men and women.

Lastly, in 1979 the Council of Europe declared *Recommendation No. 10 Concerning Women Migrants* to provide exercising migrant workers' basic rights such as the right to be protected and to promote equal treatment between national and migrant workers. The Council of Europe offers to member states to found a migration policy that provides not only implementations but also preventive measurements for women migrants. There are several recommendations made to member states on the rights and lives of migrant women. First of all, it is said that member states should provide women migrants internationally accepted standards by revision of their legislations and regulations – if those have not been changed or advanced yet. The necessity of equality – regarding treatment and opportunity – between national women workers and migrant women workers is highly recommended by the Council of Europe to be encouraged and recognized by member states.

On the other hand, the Council of Europe recommends that member states should provide basic information to migrant women workers on living and working conditions of their country before they leave their own countries. That information is recommended to be in migrants' own language to prevent misunderstandings; and that information should include specific conditions and existing problems of migrant women. Additionally, social services are recommended to be improved to help migrant women workers to accommodate society and environment. Also migrant women including widows, divorcees and unmarried single mothers should be informed about their basic rights and legal obligations that could ease their lives. It is also said that providing migrant women information on their rights and obligations

would help them to adopt the conditions of the working environment more easily.

Moreover, the Recommendation says that member states should take all necessary measures to provide non-discrimination between national and migrant women workers. For instance, there should not be any discrimination or limitation for migrant women while using child care facilities of their workplace. The rights of unemployed couples of male migrant workers should also be recognized and social assistance should be provided to them during the validity of their husbands' residence permit. In respect to training and promotion, migrant women workers should be enabled, encouraged and supported to take language classes during training in order to develop themselves – for instance improving their communication skills - and adopt to the social environment. Furthermore, it is recommended that besides ensuring non-discrimination against migrant women in promotion, member states should allow migrant women to benefit from vocational training, guidance and education. Finally, it is said that the rights of migrant women to return to their own country should be recognized and not violated.

On the other side the CEDAW and the UN declared *General Recommendation No. 16* (1991) on unpaid women workers in rural and urban family enterprises. It is said that in some countries, only the male members of families are registered as workers and so only they can receive payment and social security benefits in return for their work. In those states, there are high numbers of women who work without payment including high numbers of unpaid women who are working in family business. It is said that making women work without payment is not only contrary to the basic principles of CEDAW but it also caused the exploitation of women. Therefore,

CEDAW recommends the parties to take all of necessary measures to ensure social security benefits and payment for women workers whether they are workers in their own family businesses or work for someone else in return for their work.

Furthermore, equality in the trade unions for men and women was focused on *Policies and Programmes* prepared by the *International Confederation of Free Trade Unions* (ICFTU) in 1986. The Confederation's policies and programmes says that women can join trade unions like men to provide improvement for their working and living conditions. In this way, they also participate to the widest protection of women workers' interests. It is said that women's participation in trade unions and labour force has been increasing; and so women's active participation is described as crucial. The International Confederation of Free Trade Unions highly supports and encourages the parties to promote women's participation in trade unions and the activities of unions.

To do so, the *International Confederation of Free Trade Unions* recommends trade unions to focus particularly on the problems of women workers. For instance, there is a need for absolute arrangements for child care while women workers participate into meetings and other activities. It is said that more women workers should be educated for recruitment in the unions. In addition to those, it is recommended that trade unions should not only focus on working women, they should also focus on unemployed women and women in rural areas.

Additionally, it is said that the policies and programmes of trade unions should promote equality for men and women in terms of rights, treatment and opportunity.

The demands of women workers should not be ignored by trade unions or their policies. The ICFTU supports the foundation of appropriate bodies within the union structure in order to analyze and solve problems of women workers; to eliminate all kind of discrimination against women workers; to encourage women's participation into the unions and to support the application of the principle of equal treatment. Moreover, it is said that women's participation to those bodies – such as commissions or working groups – and in the union's other executive bodies should not be limited. To do so, it is said that the reasons which prevent women workers' access to decision making levels of unions should be analyzed and removed. Also it is said that during nominations and elections within the union, women candidates should be supported and encouraged.

On the other hand, the ICFTU says that trade unions should take the necessary steps on the elimination of inequalities and discrimination against women, for instance cooperate with authorities, in terms of right to education and right to development. Members of trade unions are also recommended to recognize equal rights of their children. In this regard, it is said that members could be trained and informed on the equality between men and women. Finally, it is said that educational activities of trade unions should be freed from gender based stereotypes and should focus on problems of women workers and the principle of equality between men and women in terms of treatment, payment, employment and occupation.

3.7. Conclusion

To sum up, some basic rights of women - second generation of human rights of

women - including right to access food; labour rights and right to work; social rights; right to health and right to education - are less focused on than the other basic rights of women, which are basically political and civil rights, in other words women's first generation of human rights in international legal documents and in international conferences which are basic sources of international law. To prove this claim and to make comparison between women's different generations of human rights, after analyzing women's first generation of human rights in previous chapter, economic – social and cultural rights of women are tried to examine in this chapter. Therefore, within the scope of women's second generation of human rights; five different and basic rights of women are tried to analyze in this chapter. In this sense, this chapter includes the analyzes of three different international documents on the right to access to food, four different documents on the right to education and also five separate international documents on the social rights. Moreover, the chapter also includes analyzes of thirteen different international documents on the right to health and eight diverse international legal documents on labour rights.

The main purpose behind these analysis is to prove that there are less conferences held while there were less conventions, declarations, action plans and recommendations advised or adopted related with the second generation of human rights of women compared to the first generation of human rights of women. Also there are less effective and binding principles, obligations, provisions, guidelines and regulations were recommended and prepared to guarantee the protection of the second generation of human rights of women. Moreover, when legal documents related with these two generations are analyzed historically, it can be seen that second generation human rights of women started to be lately subjected in

international legal documents and conferences. In other words, this chapter is a simple attempt to prove that second generation of human rights of women had been less effectively protected and guaranteed than women's first generation of human rights. That is because, exercising the second generation of human rights requires more than the recognition of those rights as it is in the first generation. The accessibility, which cause serious material obligations for governments and also make economic, social and cultural rights of women less subjected within international legal documents and conferences which are crucial sources of international law.

After try to examine the second generation of human rights of women in international legal documents and international conferences of 20th century in detail throughout this chapter, there will be an attempt to analyze women's third generation of human rights in the next chapter.

CHAPTER IV

THE THIRD GENERATION OF HUMAN RIGHTS OF WOMEN

4.1. Introduction

In this chapter, women's rights that are beyond civil - political rights and also economic - social and cultural rights, in other words the third generation of human rights of women, in the international legal documents such as declarations and conventions will try to be exposed. The chapter consists of two main parts where each one focuses on fundamental international documents on women's basic rights on development and environment. In this framework, 12 documents – including charters, conventions, action plans, declarations, strategy plans, recommendations, legislations, comments and other documents of the 20th century related with basic developmental and environmental rights of women are studied in order to show that third generation of human rights of women had been focused and subjected less in terms of content and amount and also focused and subjected very late by international legal documents comparing with both the first and second generation human rights of women.

4.2. The Right to Development

On the right to development, in 1986 the UN adopted the *Declaration on the Right to Development* in New York. The Declaration says that the right to development is inalienable like other human rights and equal opportunity for the right to development should be provided to every society and every human being. It is also said that development occurs as a result of political, economic, social and cultural improvement of all individuals' - and entire population's – well-being. According to the Declaration, the right to development is “an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.” It is also said that the subject of the right is human beings and they are expected to participate in and benefit from the right. Additionally, it is said that every human person -individually and collectively - is responsible for the promotion and protection of conditions for development. Moreover, the Declaration recommends states to take necessary steps to recognize and realize the right to development; equal opportunity for development and especially women's participation in development.

Also at the International Conference on Popular Participation in the Recovery and Development Process in Africa in 1990, the *African Charter for Popular Participation in Development and Transformation* was adopted. Since women are faced with discrimination everywhere including Africa; the Charter says that the parties agree that recognizing women's rights is crucial for their contribution to development. It is said that since women always play a key role in the transformation

and development of societies; recognizing their rights and providing their participation and contribution should be priority for the parties. Women are crucial for the well-being and development of their children, family, society and African recovery. Therefore the guarantee of equal rights between men and women and women's participation in development are highly recommended and encouraged by the Charter. It is said that, at the governmental level, providing a suitable environment for women's development, entrepreneurship, creativity and productivity may be possible by equal distribution of income and enabling access to basic human rights. On the other hand, at individual and organizational levels, customs, traditions and beliefs that make women secondary in society and create impediments and obstacles to women's contribution to development should be eliminated. Additionally, it is said that women's organizations should support, strengthen and encourage women's participation in development by reducing women's burden and providing greater access to the human rights of women.

Additionally, on the right to development, *the Economic and Social Commission for Asia and the Pacific* (ESCAP) prepared *Social Development Strategy for the ESCAP Region towards the Year 2000 and Beyond* in 1991 as a response to Governments of Asia and Pacific who desire new development policies and plans that address direct, comprehensive and overall economic and social development. It is said that one of the main purposes of the Strategy is improving life standards and providing high quality life to everyone in the ESCAP region. In this regard, it is said that fighting against poverty, distribution of justice to all and increasing the popular participation are basic goals of the Strategy. Within those goals and purposes, the Strategy gives priority to provide social development particularly for vulnerable people such as

disabled persons, women and the elderly. It is said that inequalities and differences in power, wealth and / or status of various social groups cause conflicts and discrimination against vulnerable persons in respective regions.

Therefore, the Strategy says that recognizing and realizing the equal distribution of justice is crucial. Additionally, it is said that human rights issue is another area of concern where the governments of Asia and Pacific could not only eliminate violence against human rights by education which increases the awareness and decrease the illiteracy, but also provides every human being exercise of and access to human rights especially the vulnerable ones. Moreover the Strategy says that stereotypes on women promote secondary status of women throughout the region. It is said that women are playing an important role both in social and economic development; therefore the Strategy recommends that the equality between men and women, equal treatment at workplace and equal payment for men and women, equal access to protection of health, education and other social security services should be regarded and considered by the parties during the foundation and creation of their policies and programmes on social and economic development.

Moreover, in 1983, the Organization for Economic Co-operation and Development–Development Assistance Committee (OECD – DAC) adopted the *Guiding Principles to Aid Agencies for Supporting the Role of Women in Development*. The OECD – DAC Committee says that its members recognize the fact that effective and real development requires involving men and women. The contribution of women to their countries' developments is crucial since without their participation the objectives of development could not be reached. Therefore, it is recommended that development

policies and plans should be designed to include women. The Committee advises the parties to make and implement clear policies, action plans and procedures that focus on the place of women in development. The Principles are also aimed to promote support for women's active and full contribution to the development process by aid agencies.

State policies on women's participation to development should be firmly based on legislative and / or administrative directives which should be in accordance with other member states' development policies. It is said that women can increase the well-being of their families and society. Therefore development policies and action plans of DAC members should meet women's job related needs such as accessibility to resources and employment opportunities.

Also, in 1994, *the Jakarta Declaration and Plan of Action for the Advancement of Women in Asia and Pacific*, which was held by ESCAP, were adopted. To exterminate poverty, it is said that women should be supported and empowered by equality in accessibility to and control of the resources. The Plan of Action says that the parties should not ignore basic concerns of women either in their rural development policies or in their agricultural development programmes. On agriculture, it is said that more resources and opportunities should be provided to women in agriculture to make them earn their own money. The states should provide and promote equality between men and women in agriculture and women should be protected from harmful agricultural chemicals. To guarantee the security of women in rural areas, development policies and / or action plans should involve the concerns of women in agriculture. On women in the private sector, it is said that promoting

more job opportunities and income equality to women in the private sector including trade and manufacturing should be ensured by the governments. Finally, it is said that there is need for the support and encouragement of women's groups and the NGOs to self-employed or women employee in the private sector.

Moreover, the *Plan of Actions* recommends that during the foundation, development, application and evaluation of governmental policies and programmes on development, women should not be ignored. It is said that women were not allowed to participate in development processes and activities equally, so new policies must include women in their target groups. Furthermore, it is advised that the gender gap in accessibility to economic information and opportunities should be reduced by the creation of gender sensitive policies, information systems and employment services. For instance, it is said that to eliminate gender gap in training, equal opportunities should be provided for women to develop themselves and compete with men equally.

On women's ability to resource management, it is said that the parties should recognize women's capacity and power in resource management. To activate women's capacity, it is recommended that the parties not only should meet the concerns of women – including women in rural areas and their concerns at all levels – within management bodies but also should encourage participation of women in the management process. Lastly, it is said that women should be allowed to have exactly equal rights for having, managing and financing their houses – as female head – and managing their environments.

Furthermore, on the right to development, the *World Conference of the UN Decade*

for Women, which was held by the UN, urged the governments to guarantee providing basic needs and recognize the rights of women in agriculture and rural areas in 1980. The report of the Conference - *Report of the World Conference of the United Nations Decade for Women: Equality, Development and Peace* - says that the parties should provide educational and health services as well as improving job opportunities for women in rural areas. Moreover, it is said that the governments take all necessary steps whereby rural women can easily and equally access credit services and / or finance mechanisms to meet their needs. Rural women should be supported and encouraged to be elected for communities, unions and organizations. Finally, the Conference recalls all rural women in the world both to be conscious about their rights and also exercise their indispensable rights.

In addition to these, UNESCO held *World Conference on Agrarian Reform and Rural Development* in 1979. Related to the right to development, the Conference focused on women's place in rural development. The report says that to make successful implementation and application of development plans and programmes; women's key role within societal activities should be recognized. Therefore, it is said that women's full participation and integration should be supported for successful rural development. To do so, the governments are recommended to revise their laws and regulations which cause discrimination against women. It is also said that women's equal access to human rights such as equal participation in unions and organizations including to be nominated and to be elected as well as women's ownership rights should be ensured by the parties.

The states are advised to support collective action – such as founding and managing

an organization – of women in agriculture and rural areas in order to encourage their participation in all aspects of economic and social life. To eliminate the obstacles and problems that women are faced with while participating in development, the states are recommended to establish totally new systems to identify, analyze and solve those problems. Moreover, on the education of rural women, it is said that besides providing equal opportunities for men and women in terms of education, states should establish 'non formal education opportunities' for women who work in the agricultural sector and live in rural areas.

Moreover, the FAO declared *the Plan of Action on for People's Participation in Rural Development* in 1991 to increase the participation of rural people in development. The Plan of Action says that legislative – administrative provisions and economic policies of many states include some discrimination against rural people. Additionally, the Plan says that rural development plans and programmes should recognize women's critical place and role within economic life – both in agriculture and in other activities – and says that to realize development; women should participate in growth on equal terms with men. Therefore, the parties are recommended to encourage rural people's participation in development by governmental or national policies and regulations which introduce reforms to promote rural people's access to national resources and social services. On women in rural areas, the Plan says that there is need for revision of existing laws to ensure women's – and other vulnerable group members' – rights and their participation in the development process.

Additionally, 1995 dated *Copenhagen Declaration on Social Development and*

Programme of Action, which was declared after the UN's World Summit for Social Development, talked about the right to development. The recommendations and actions that Copenhagen Declaration and Programme of Action advise to the UN members are to provide sustainable development, economic growth, social integration, eradication of unemployment and poverty. It is said that, when policies are made to realize the recommendations, the parties should promote both making all kind of policies – such as social, environmental and economic – integrated and also total equality and participation of all groups and members of the society – the principle of non discrimination. On women and gender equality, the Programme of Action says that recognizing women's rights and encouraging women's participation in all social, political, economic and all other activities are very important. Any form of discrimination against women and any obstacles that limit women's access to basic social services should be eliminated.

To actualize social development, it is said that there should be a favorable and proper political, economic, social and legal environment. Therefore, the states are recommended to give priority to foundation and application of social development policies, in which women's participation in all steps is emphasized, as well as guaranteeing the rule of law, principle of equality between two sexes and the elimination of any form of discrimination. Additionally, it is said that the right to development is one of the fundamental human rights and freedoms, so it should be properly recognized, protected and promoted for all human beings – including vulnerable persons, children, women – since all human rights are universal.

On poverty, it is said that there is need for 'feminization of poverty' since the number

of female heads of family keep on increasing. To eradicate poverty overall, it is said that there should be local, regional, national, supranational and international plans and strategies on the fight against poverty. To do so, every human being should enjoy their basic rights and freedoms without discrimination as well as states should promote more job opportunities for and encourage participation of people who suffer from poverty including women.

Furthermore, the *Plan of Action* says that the governments should provide and meet the basic needs of all human beings; including women, vulnerable groups and people who live in poverty; since eradication of poverty requires to meet the basic needs such as water, food, health, education and housing - of every human being. To do so; it is said that the governments should guarantee everyone's access equally to health care services, social services and legal - educational services. The governments are also responsible to ensure private and public health, so they should take necessary steps to fight against diseases and illnesses like AIDS / HIV. Additionally, it is said that the governments are the responsible bodies for providing safe drinking water and safe and sufficient food for both their citizens and human beings all over the world.

Finally, the last document that is related with women's right to development is *Lagos Plan of Action for the Economic Development of Africa 1980 – 2000*. Lagos Plan of Action was prepared by the OAU in 1980. It says that while promoting overall African development, special attention should be given to development of African women. The policies and strategies on African women's development are recommended not to only as local or national, but continental. Also, it is said that those strategies and policies are agreed that both to involve women members and

their participation during the policy making process and also to be related with education, technology, health, trade, energy, employment, population, agriculture, natural resources, media, nutrition and women's participation in development.

On national organizational machineries, it is said that the machineries should be functional to satisfy the needs of women and accessible to all women including rural women. In regard to education and literacy, the Plan of Action says that besides national educational policies; which should focus on not only increasing the number of educated women but also women's access to high level of education, there is need for non-formal educational facilities especially for participation and education of women in rural areas. It is said that illiteracy prevents women to participate especially in economic and political life, so the governments are recommended to make both literacy campaigns to make female children to go to school and also educational programmes for adults and encourage adult women to participate in these programmes.

In terms of training and employment; it is said that the role of women – both rural and urban - in the economy is essential. Therefore, the necessity of providing adequate opportunities for women to work and to be trained should not be ignored by the parties. To do so, it is advised that the states should promote women's participation and productivity in the economy, for instance rural women should be encouraged to participate in agriculture. The states are recommended to support foundation of working women's unions and cooperatives besides ensuring and encouraging self-employment of women. Moreover it is said that, the governments should provide and promote employment and training opportunities for women who

have different levels of education. In this way, the Plan of Action says that rural young women would give up going to big cities in which there is more unemployment. On health and nutrition; it is said that the states should encourage and support medical research to prevent individual and public health from diseases and illnesses. Additionally, it is said that the number and accessibility to medical services including pregnancy and maternal services and health personnel should be enhanced. Finally, it is said that to make all of their citizens to get adequate and safe supplies of food and water; the states should support technological developments as well as take all necessary steps.

4.3. The Right to Environment

On the right to healthy environment of women, there were very few international legal documents in the 20th century. In 1992 as a result of the *UN Conference on Environment and Development, Rio Declaration on Environment and Development* was declared by the UN. It says that the main concern of any sustainable development policy should be human beings since they are supposed to have a healthy life in a healthy environment. Therefore, the Declaration says that to protect and to promote development for existing populations and future generations, environmental needs should not be ignored because the protection of environment is essential for sustainable development. To solve environmental problems, states are recommended to encourage the participation of all members of their society to the solution process. To do so, the Declaration says that there is need for increasing the awareness of the society on environmental problems by allowing them to access to all information on environment. Additionally, the crucial role of women in

environmental issues - such as environmental management – is emphasized by the Declaration.

Moreover, after UN Conference on Environment and Development in Rio de Janeiro, the UN declared *the Agenda 21* in 1993 and *Chapter 24 Global Action for Women towards Sustainable and Equitable Development* in 1993. The Agenda which proposes the need for more women's participation in the management of the ecosystem, controlling environmental pollution and other areas related with environmental concerns and problems. To do so, the Agenda recommends both to make necessary changes in administrative, regulative and legislative bodies and also to establish necessary local, regional, national and international mechanisms to control implementation of environmental policies. It is said that to have an active and effective women's participation not only all forms of discrimination against women should be eliminated but also there should be equal rights and opportunities for men and women. In addition to that, it is said that gender based stereotypes should be removed from all educational materials and women's literacy should be supported in order to enable women to manage the environment and resources.

4.4. Conclusion

The purpose of this chapter is to show that during the 20th century, some basic rights of women – partially second but especially third generations of human rights of women are much fewer and focused on much later than the political and civil rights of women in international legal documents and in international conferences which are the main sources of international law. However, unlike the second generation of

human rights of women, the third generation rights are also quantitatively and qualitatively addressed quite a few in international documents. Actually, the third generation of human rights of women were started to be focused on towards the end of the century. Therefore, it can be said that the third generation of human rights of women had been less effectively protected and guaranteed than women's first and second generations of human rights in 20th century. To prove this claim and to make the comparison between women's different generations of human rights possible, after exposing women's first and second generations of human rights in the previous chapters, the third generation rights of women – collective rights - are tried to examine in this chapter. Therefore, within the scope of women's third generation of human rights; the right to development and the right to healthy environment are tried to analyze in this chapter. In this sense, this chapter includes analyzes of ten different international documents on the developmental rights and also two different international documents on environmental rights.

The main purpose behind these analysis is to prove that there are less conferences held while there were less charters, conventions, action plans, declarations, strategy plans, recommendations, legislations, comments and other documents of 20th century advised or adopted related with the third generation of human rights of women comparing to first and second generations of human rights of women. There are also less binding and effective principles, obligations, provisions, guidelines and regulations recommended and prepared to guarantee the protection of the third generation of human rights of women.

After trying to examine three generations of human rights of women in international

legal documents and international conferences of the 20th century in detail throughout previous chapters, there will be conclusions in the next chapter, in which the comparison between three generations of human rights of women in international legal documents will be argued to finalize.

CHAPTER V

CONCLUSION

As stated in the introduction, this thesis tries to answer following questions: *“Were the generations of human rights of women equally subjected by the international law throughout the 20th century, or the classification based on generation of human rights of women reflects a real differentiation in terms of content, the importance, priority, superiority and predominancy?”* To do so the thesis aim to provide a comparison about the generations of human rights of women, which was derived from Vasak’s classification of ‘three generations of human rights’, in 20th century international law by studying international legal documents and reports of international conferences.

Within this framework, in the second chapter, women's first generation of human rights which are basically political and civil rights of women were subjected to analyze in detail. Then, in chapter three, in line with the aim of the thesis, second generation of human rights of women which refer to economic, social and cultural rights were examined. Lastly, in the fourth chapter, the third generation of human rights of women which means developmental – environmental rights and are also known as ‘collective rights’ were studied in order to make comparison among three

generations of rights possible. Finally, in conclusion , under the light of the comparison of previous three chapters, an analysis on existed unequal situation of women's rights and freedoms in 20th century international law will be done based on Vasak's notion of generation of human rights.

As it was stated in introduction, regarding the concept of "women's rights", it can be said that women's rights refer to legal norms on gender based nondiscrimination to promote equal rights, treatment and opportunities for both men and women. The need for the protection of and the respect for women's human rights occurs as a result of an ugly fact that substantial numbers of women regularly experience torture, murder, humiliation, beating, mutilation and rape simply because of being female. Although many crimes – including the ones listed above – when committed against anyone are forbidden and are recognized as a violation of human rights; when the victim was a woman, they were regularly ignored or disregarded quite a long time.

In 1977, Vasak introduced his notion of three generations of human rights for the first time. According to Vasak's notion of three generations of human rights; the first generation of human rights refers to political and civil rights, the second generation of human rights focuses on economic, social and cultural rights while the third generation of human rights points out the solidarity rights - collective rights. To better understand his division, it is important to clarify that Vasak does not use the term 'generation' to imply or say that neither previous generation of human rights give rise to the next generation of rights and fade away in time nor one generation is less crucial than others. What he does is to relate and justify his personal classification on human rights with the famous and very well-known principles of the

1789 French Revolution. The principles are *liberté, égalité* and *fraternité* which mean liberty, equality and fraternity.

During the literature review and preliminary researches for thesis, it becomes clear that there have been any specific explanatory or comparative academic work on the generations of human rights of women. Although there have been academic works on women in the international legal documents and generations of human rights in international law; neither Vasak nor any other scholars relate the notion of three generations of human rights directly to the women's rights. Therefore, there is a need for a comparison of generations of human rights of women of the 20th century international legal documents in order to witness increasing influence of expanding women's movement on international law. Moreover, this comparison would allow showing and analyzing the obvious differences between generations of women's rights in terms of content, matter, priority, superiority and predominancy.

In accordance with this purpose, within the scope of women's first generation of human rights; seven basic civil and political rights and freedoms of women are exposed in the second chapter as follows: the right to political participation; freedom from gender based discrimination; right to marry; right to found a family; protection of motherhood; slavery, human trafficking and prostitution and finally the freedom of the media and access to information. In this framework, 48 documents – including charters, conventions, action plans, declarations, strategy plans, recommendations, legislations, comments and other documents of 20th century related with basic civil and political rights of women are studied. In this sense, the second chapter includes six different international documents on the right to political participation, three

different documents on the freedom of information and mass media, ten separate international documents on the right to marry and six diverse legal document on the right to found a family. Moreover, the chapter also includes fourteen different international documents on the prevention of gender discrimination, four separate documents on the protection of motherhood and five diverse international legal documents on slavery, human trafficking and prostitution.

According to several documents, it becomes clear that political and civil human rights of women started to be subjected and focused on internationally immediately after World War II. First generation human rights of women were firstly protected and guaranteed by the UN Charter (1945) and UDHR (1948) which were seen as the very first steps for the protection of and respect for human rights internationally. Among the rights that are analysed in the second chapter, freedom of information and mass media is an exception that started to be internationally focused on lately comparing to the other rights belongs to first generation. Moreover, this basic freedom became the subject of European Community at first, and then became the subject of international agenda. The possible reason lies under this reality is the fact that the emergence of the information age and the importance of the media understood after the first half of 20th century, therefore the freedom of information and mass media was not seen as crucial until that time.

On the other side, to prove the thesis and to make comparison between women's different generations of human rights, after analyzing women's first generation of human rights, economic – social and cultural rights of women are tried to examine in the third chapter. Within this scope, Chapter 3 consists of five main parts where each

one analysis international documents related with women's basic economic, social and cultural rights and freedoms as follows: right to access food; labour rights and right to work; social rights; right to health and finally right to education. In this framework, 33 documents – including charters, conventions, action plans, declarations, strategy plans, recommendations, legislations, comments and other documents of 20th century related with basic economic, social and cultural rights of women are enumerated. In this sense, this chapter includes three different international documents on the right to access to food, four different documents on the right to education and also five separate international documents on social rights. Moreover, the chapter also includes thirteen different international documents on the right to health and eight diverse international legal documents on labour rights.

According to the analysis of several documents, it can be clearly seen that economic, social and cultural human rights of women also started to be firstly discussed internationally with the declaration of the UN Charter (1945) and UDHR (1948). However, the protection of and the respect for the second generation human rights of women were actually started to be subjected and focused on internationally in the 1960s with the declaration of ICESCR. Among the rights that are listed in the third chapter, right to work / labour rights had a special support from ILO on the way to international protection of the right to work for women in international law. Moreover, the European Community provided a noteworthy support for economic, social and cultural rights in the 1960s such as European Social Charter (1961) which was one of the reasons that pushed the international community to promote guarantee for the second generation of human rights of women globally by international legal documents and to reshape international law in order to contain these basic rights.

In the fourth chapter, after looking at women's first and second generations of human rights in the previous chapters, women's rights that are beyond civil - political rights and also economic - social and cultural rights, in other words the third generation of human rights of women which are also known as 'collective rights – solidarity rights' are examined. The chapter consists of two main parts in which each one examines fundamental international documents of 20th century on women's basic rights and freedoms within the scope of third generation rights. Within this framework, the right to development and the right to a healthy environment are exposed throughout the chapter. In this sense, the fourth chapter includes ten different international documents on the developmental rights and also two different international documents on environmental rights.

In the fourth chapter, according to the documents related with the third generation of human rights of women, it becomes clear that collective rights has not been subjected and / or focused on by international legal documents until the last quarter of the 20th century. Those rights were not taken into consideration by the UDHR (1948), and there was not an international covenant declared specifically to protect the third generation rights such as ICESCR (1966) or ICPCR (1966). Therefore, the protection of and respect for the third generation human rights of women actually started to be discussed internationally very late compared to other two generations of human rights of women. Moreover, due to this reason, those rights' effects on reshaping 20th century international law remained very weak comparing to other basic rights and freedoms of women.

Actually, although the third generation of human rights includes basic rights and freedoms more than two - right to development and right to environment - according to the classification of human rights under three generations; these two rights occurred as main rights that were subjected and focused on internationally by documents of 20th century. Even though the right to development and the right to environment are subjected in the fourth chapter as a result of this fact, it can be seen that there were relatively few international legal documents which focused on and subjected the mentioned rights. On the other hand, it is obvious that the other solidarity – collective rights and freedoms of women were not considered, discussed, studied or focused on internationally.

In the light of these chapters, the thesis finds out that first generation of human rights of women, as known as political and civil rights are *primarily* and *priorly* focused on than the second and especially third generation rights of women in international legal documents. Although the first and second generation of human rights started to be subjected, guaranteed and protected with the foundation of the UN and the declaration of the UDHR; detailed study of international legal documents and the reports / outputs of international conferences of 20th century proves that the second generation of human rights of women actually started to be internationally guaranteed around the 1960s while the first generation of rights attained international protection, respect and guarantees earlier. Moreover, the third generation of human rights of women were started to be focused on towards the end of the 20th century. Third generation rights were not taken into consideration either by the UDHR (1948) or by any international binding covenant such as ICESCR (1966) or ICPCR (1966) which specifically focused on economic, social and cultural rights and also political –

civil rights.

The research and analysis clearly proves that first generation of human rights started to be subjected very firstly in international legal documents of 20th century compared to other two generations. After the declaration of the UDHR, the emphasis on political and civil rights continued in the international arena and so there were some steps taken via international conferences and documents since the 1950s. On the other hand, international guarantee for the protection of and respect for the second generation of rights were subjected in the mid 1960s while the third generation of human rights were started to paid attention during the last quarter of the 20th century.

In addition to that, the thesis finds out that the first generation of human rights of women are *overwhelmingly* and *predominantly* focused on and subjected than the second and especially third generation rights of women in international legal documents of 20th century. Within the 20th century international legal documents and conferences; political and civil rights of women had been guaranteed and protected quantitatively and qualitatively a lot more than economic, social, cultural and especially collective rights of women. In other words, in 20th century, more conferences were held while there were more international legal documents such as conventions, declarations, action plans and recommendations were signed, advised or adopted related with the first generation of human rights of women rather than second and third generations. Moreover, the rapid decrease of the number of international legal documents and conferences related with the third generation of rights proves that third generation of rights had been less focused on and subjected than other two generation of rights during 20th century.

This undeniable fact affects the scope and the length of the chapters of thesis as follows: the analysis of international documents related with the women's first generation of human rights includes 48 international legal documents while women's second generation of human rights covers 33 documents and women's third generation of human rights include the analysis of 12 different international legal documents. Since the first generation of human rights of women was overwhelmingly and predominantly focused on, the number of analysed international legal documents related with women's generations of human rights varies from generation to generation.

Furthermore, since the first generation of human rights of women were subjected predominantly, primarily, priorly and overwhelmingly; those rights guaranteed, protected and respected more than other generations via more effective and binding principles, obligations, provisions, guidelines and regulations promoted, recommended and prepared to guarantee the protection of the first generation of human rights of women by the international legal documents of 20th century. In other words, on the political and civil rights, there were more international conferences held and more international treaties – including covenants, agreements, conventions, declarations and etc. – signed predominantly, primarily and priorly throughout the 20th century. There were more effective and binding principles prepared on the protection of and respect for the first generation of women's rights.

On the other hand, less effective and binding principles, obligations, provisions, guidelines, regulations and etc. were signed, promoted, recommended and prepared

to guarantee the protection of the second and especially third generations of human rights of women. While the first generation of human rights of women started to be internationally protected since 1948 with effective and binding obligations, the third generation of human rights of women started to be discussed started from last quarter of the century. As a result of this, rights and freedoms that are belongs to first generation for instance prevention of slavery, right to political participation, right to marry had been respected, promoted, protected and guaranteed by most of states for many years during 20th century while right to environment was only discussed – not fully protected or guaranteed – in international conferences and became the subject of international agenda since the end of the century. Therefore, it is obvious that there were quite less effective binding principles, regulations and sanctions appeared in the 20th century international legal documents on the protection of the second and third generations in comparison to the first generation of rights.

Within the light of the analysis and comparison of three generation of women's human rights, it can be said that the material obligations was one of the important reason that lies under the severe difference among the three generations of rights. Since the second and the third generation of women's rights require and bring material obligations and sanctions for states; recognizing, protecting, guaranteeing and promoting the first generations of human rights of women were easier and cheaper than the recognizing and guaranteeing second and especially third generation of rights. The second and the third generation rights require governments to work harder in order to make every citizen to exercise and enjoy these rights - for instance the recognizing the right to education, the right to health or the right to healthy environment are not enough to exercise these rights. However, on the other hand, the

right to marry or the right the political participation does not require governments to work in order to make human beings enjoy those rights since they bring any material obligation to states.

On the other side; patriarchal structure, system, perspectives and societies could be seen another crucial reason that lie under the severe difference among the three generations of rights in the 20th century international legal documents. The patriarchal society structure was very powerful during 20th century, as a result of this; most of women were not educated or participated into either decision making process or politics. Therefore, most of the times, human rights and women's rights were discussed and focused by men in international conferences during 20th century. The patriarchal structure did not allow women to participate into some conferences that focus on the protection of and the respect for women's rights and freedoms. Under these circumstances, the predominance of first generation of women's rights in the 20th century is understandable since the first generation of rights are political and civil rights not economic, social or solidarity rights. Recognizing and protecting the first generation of rights of women would not bring any harm to the patriarchal structure but recognizing the second and third generation of rights would rock the system profoundly. Therefore, the first generation of women's rights – not the second or the third generation rights - were subjected predominantly, primarily, priorly and overwhelmingly in 20th century international legal documents.

However, as it can be seen from the analysis and comparison of international legal documents in previous chapters, the second and especially the third generation of women's rights started to be discussed and focused on internationally starting from

the last decades of 20th century as a result of the rise of women's movement in international system and enhancement of women's participation to decision making process, politics and international conferences. Women and advocates of women's rights started to be more active and make more efforts for the second and the third generations of rights since they were unhappy and uncomfortable with the existed situation. They believed the idea that women's rights should be protected, promoted, guaranteed and enhanced as a whole package; one generation of rights and freedoms should not be superior to other generations because all of the rights and freedoms are vital, inalienable, substantial and non-negotiable. As a result of this discomfort on difference of generations of women's rights, women's movement and moreover women's conscious, attention, efforts on women's rights and freedoms notably raised starting from 1980s.

Globalization was one of the main reasons of increasing awareness and consciousness on women's human rights among human beings and societies; and also the effect of women's movements on international agenda starting from 1980s. With the effects of globalization, new connection and communication ways and opportunities occurred. As a result of this highly important development, interactivity among people increased and people had chance to connect with other human beings from near and far. Therefore; discrimination to, violations of and disrespectfulness to the basic rights and freedoms of women started to be heard more and more in international agenda. Moreover, again with these effects of globalization, women's movement started to be strengthen, heard and become relatively influential on international politics more and more. As a result of these developments; the second and the third generations of women's rights which were ignored by patriarchal

structure become at the center of the focus of women's movement - and therefore at the center of international politics, documents and conferences - starting from last decades of 20th century.

Moreover, in the light of the analysis and comparison based on international legal documents of 20th century related with women's rights and freedoms display the fact that there had been crucial periods for the protection of and the respect for human rights including women's rights occurred during 20th century. Those periods were: late 1940s, mid 1960s and late 1970s. That is, in these specific time periods, there were quite a few international legal documents discussed, signed and ratified and also more international conferences held more than ever on women's rights and freedoms. One of the basic characteristics of these time lines was that the efforts for world-wide protection, recognition and the respect for rights and freedoms such as the UN Charter, ICPCR, ICESCR and CEDAW. The reason which lies under this fact was the recurring necessity of dealing with the violations, discriminations and the emphasizing the importance of the protection of and the respect for human rights and women's rights as a whole.

Furthermore, after analysing and comparing several international legal documents related with the three generations of women's human rights, it could be said that international legal protection, enhancement and guarantee of women's rights and freedoms are vital for women's lives. Therefore, it could be said that women's rights should be matter of international politics and international jurisdiction; these rights should not be abandoned to the control of jurisdiction of national governments. In several states, women's rights and the issues related to women were mostly seen in

the private sphere and that perspective caused exclusion of women from the discourse of politics and human rights. By this way traditional exclusion of women occurred and resulted in invisibility, abuses and violations of women's rights and freedoms for a long time. Therefore, international protection has been a necessity and moreover an obligation for women's rights and freedoms in order to deal with the violations, discriminations and to emphasize the importance of the protection of and the respect for women's rights and freedoms as a whole.

Furthermore, it could be also said that, in the long run, the international legal documents, principles, recommendations, charters, conventions, action plans, declarations, strategy plans, legislations, comments and conferences of 20th century related with the women's rights have served both to protect and guarantee the women's rights and freedoms and also to provide women better lives not only at international level but also at national level. These international legal documents, steps and developments put the protection of and the respect for women's rights on the long – term agenda and more importantly increased the social awareness and consciousness on the protection of and the respect for women's rights. Therefore, it can be said that these developments have served to increase the quality of women's lives all around the world since those documents provided both better legal protection and increased social consciousness. In other words, the international legal documents of 20th century have affected women's lives deeply because they did not only promote legal protection for women's rights and freedoms, they increased the life styles of women in everywhere by protecting their rights such as right to education, right to health, right to political participation, right to work and right to healthy environment. More importantly, these international legal documents served

as tools both for increasing the awareness of women on their rights and freedoms and also for enhancing the consciousness of societies on women's rights and freedoms and also other issues related with women.

On the other hand, within the light of this analysis, it could be said that changing the perceptions of societies and also states related with women is crucial for the protection of and the respect for women's rights and freedoms. As it can be seen in the 20th century international law and international politics; there had been several international legal document signed and ratified while holding several international conferences on women's rights and freedoms because as it was stated above, there had been a recurring necessity of both dealing with the violations, discriminations and also emphasizing the importance of women's rights and freedoms in the 20th century. To eliminate the violations of rights and freedoms, to prevent any kind of discrimination against women and to increase the awareness of the societies on women's rights and freedoms; there is a need for changing the perspectives of people and societies. International legal protection is of course vital for women's rights and freedoms; but it is not enough. For instance, although one state sign and ratify several international agreements on the protection of and the respect for women's human rights; the application of those agreements can be problematic and deficient since the perception of the society or the state on women is problematic. Therefore, from the analysis of 20th century international legal documents, it can be said that, it is needed to re shape and change the societies' and states' perceptions on women; besides promoting the international protection for women's human rights.

In addition to these, it can be said that the importance of the UN for the protection of

and the respect for three generations of women's rights should not be ignored. It can be said that the support of UN was very precious for women's rights and freedoms belongs to the second and the third generation especially in the late 20th century. The equality in terms of rights and freedoms for women and men is one of the basic principles of UN Charter. Moreover, UN Charter has a special importance since it is the first international legal and binding document that focuses on the equality principle between men and women. Additionally, according to some scholars women's movement has evolved within the space that occurs at the end of the 20th century by the substantial support of the UN such as the declaration of CEDAW, UN Decade for Women (between 1976-1985) and holding the World Conferences on Human Rights. Actually, making gender as leading topic of international conferences of UN could be seen as one of the greatest success since gendering the agenda during 1990s, influence international agenda and global understanding of women's rights and freedoms via final reports and outcomes of those conferences. Thus, especially women's ignored rights and freedoms – the second and the third generation of rights - became one of the areas of focus within international human rights agenda politics and framework starting from lately 1970s and early 1980s.

Besides all these points, after the analysis and comparison of several international legal documents related with women's basic rights and freedoms, it could be seen that Western states was pioneer and superior to Eastern states on the protection of and the respect for women's rights and freedoms in the 20th century. Although international organizations such as the UN and ILO were generally the main actors while holding international conferences and preparing international documents and agreements; the EU was also crucial actor for the protection of and the respect for

especially women's second and third generations of rights and freedoms. When we examine the international legal documents and the reports of international conferences that are discussed previous chapters; it could be seen that the European Community became pioneer and guide both at state level, regional level and international level especially in economic, social and cultural rights during 20th century. Moreover, it could be seen that the EU subjected and focused on the freedom of information and mass media – the freedom that belongs to the first generation of human rights - at first and then that freedom became the subject of international agenda. The European Community reshaped their policies addressing women and adopted women's rights and freedoms as indispensable necessity of cultural development. Therefore, it could be seen that as a result of special efforts of the European Community and other Western states on the protection of and the respect for the basic rights and freedoms of women; there was a Western superiority and pioneering on some women's rights and freedoms in comparison to East during the 20th century.

Separately, in terms of future studies, it could be said that these findings of the research are valuable and precious evidence for analysing historical development process of a human right or a women's right world-wide. Also, the findings are useful and helpful for a country based or regional analysis of human rights and historical development of women's rights in a particular country / region. For instance, this research can be useful for a comparative work in which international developments on women's rights and national developments of a specific country on women's rights during 20th century. Moreover, the findings of this research can be used in a research that focuses on quality of women's lives in 20th and 21st century.

Once and for all, as it was stated above, the findings of this thesis support the preliminary argument put forward in the introduction chapter that the first generation of human rights of women had been more effectively protected, guaranteed and subjected than the second and especially third generations of human rights of women in 20th century international law. International legal documents of the 20th century primarily, priorly, predominantly and also previously focused on political and civil rights of women rather than economic, social, cultural and collective rights which require material obligations, duties and sanctions that shall be respected, recognized and fulfilled by the states. Additionally, according to the findings, it can be said that when Vasak's notion of three generations of human rights is applied to women's rights in international legal documents of 20th century, the notion becomes more than a classification based on basic principles of French Revolution. The classification based on generation of human rights of women reflects a real differentiation among basic rights and freedoms since the classification is associable with the importance, priority, superiority and predominancy of one generation to another generation in the 20th century international law.

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