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**Social Affairs Committee, GA 6**

**Promoting anti-discrimination laws and making them applicable for small corporations**



**RESEARCH  
REPORT**

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# RESEARCH REPORT

**Forum: Social Affairs, GA 6**

**Issue: Promoting anti-discrimination laws and making them applicable  
for small corporations**

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## Introduction

In the Civil Rights context, unlawful discrimination is the unequal or unfair treatment of a certain group or an individual based on their certain features such as but not limited to age, gender, race, disability, religion, pregnancy and maternity, sexual orientation, gender reassignment, marriage and civil partnership as highlighted in The Equality Act 2010 (“What Is Discrimination?”). The laws that are created on federal or state level in order to protect a certain group of people against any type of unlawful discrimination are called anti-discrimination laws.

Since the ratification of The Universal Declaration of Human Rights, which recognizes all humans equal regardless of their certain characteristics, even though most Member States have drafted anti-discrimination laws along with ratifying the declaration, charges of discriminations have increased by 23.9% since 1997 across the globe according to a report published in 2011 by The Equal Opportunity Commission (EEOC) (“United States Equal Employment Opportunity”). According to the report, the largest number of charges were for race and gender. This data indicates that there is an ongoing problem with the implementation of anti-discrimination laws because the number of Member States with anti-discrimination laws and anti-discrimination charges are supposed to be directly proportional. Hence, we can have the following explanations for this failure: government’s failure for the implementation of these laws, lack of deterrence in the laws, and rise in the dogmatic opinions of the public. The question is what is the reason for an increase in the dogmatic opinions of the public, which leads to acts of discrimination?

Since the foundation of the United Nations, there had been thirty-eight interstate wars. And, out of these thirty-eight interstate wars, thirty of these wars took place in Africa, Middle East, and South Asia, where groups with different ideologies live, and the main reasons of the interstate wars that took place after 1945 are extremism in nationalism, race, and religion. The increase in the number of civil wars and formation of terrorist groups with religious or racial purposes lead to the misconception of religion and race by the civilians and politicians, which accounts for discriminatory acts going on in various countries even though there has been a raise in the number of anti-discriminatory acts. Hence, even though most Member States have been developing in terms of Civil Rights, the recent political and ideological movements have

## RESEARCH REPORT

affected this development process negatively, and this report will scrutinize the ways to reaccelerate this process along with ensuring that all kinds of unlawful discrimination is prohibited in all Member States.

### Definition of Key Terms

#### Discrimination

Discrimination is the prejudicial or unjust treatment of different categories of people on the grounds of special characteristics such as race, gender, or sex. Not all kinds of discriminations are illegal. For example, affirmative action is legal and promoted by many Member States

#### Unlawful discrimination

Unlawful discrimination is the case when an individual or a certain group of people face prejudicial or unjust treatment due to “race, color, national or ethnic origin; sex, pregnancy or marital status; age; disability; religion; sexual preference; trade union activity; or some other characteristic specified under anti-discrimination or human rights legislation” (“What Is Unlawful Discrimination?”).

#### Lawful discrimination

Some types of discriminations are perfectly legal as long as they do not violate federal or state laws that prohibit discrimination. For example, having requirements in an employment selection process such as requiring a specific degree or a specific talent is perfectly legal as long as anti-discrimination or human rights legislation, or federal, state laws are not violated.

#### Affirmative Action

Affirmative action is the policy of preferring members of groups that are known to have previously suffered from discrimination in education and employment in order to equalize previously suffered groups and non-discriminated groups in the society.

#### Civil rights

Civil rights are a group of rights promoting political and social freedom and equality among all groups of people in a society.

#### Anti-discrimination laws

Anti-discrimination laws that are adopted by the Member States prohibit discrimination on the basis of race, color, sex, or ethnic origin in any and all institutes that are law-abided.

# RESEARCH REPORT

## Extremism

Extremism is the state of holding fanaticism towards certain political, religious, or cultural aspects.

## General Overview

Discrimination is not a modern-day phenomenon only. Favoring a certain group of people over another without any morally relevant differences has been the case ever since groups with different opinions have existed. The first worth mentioning attempt to prevent the unfair treatment to a certain group of people was The Statute of Kalisz. In the 13<sup>th</sup> century Europe, Jews had almost no legal rights compared to the Christians. This makes the General Charter of Jewish Liberties, which was also known as the Statute of Kalisz and issued by the Duke of Greater Poland Boleslaus the Pious in 1264, the very first anti-discrimination laws that had been ratified by a state. The Statute aimed to solve the issues of authority over the minority Jewish population and restrictions on this portion of the population, and this document latter became the symbol of Jews' safe living in Poland. After 1264, many states have drafted such statutes like Edict of Nantes, which granted substantial rights to the Calvinist Protestants of France. However, excluding Warsaw Confederation of 1573, which was the first European act granting religious freedoms in the Polish-Lithuanian Commonwealth, most of these statutes aimed to equalize a certain group of minority and the majority rights, meaning that no declaration until 1948 aimed to equalize all unlawfully discriminated groups collectively to the non-discriminated groups.

In 1948, ratification of The Universal Declaration of Human Rights recognized all human beings equal regardless of their certain characteristics, and this declaration became the first internationally accepted document to declare all human beings equal. With the year of 1948, one would be able to observe the inception of the ratification of anti-discrimination laws on state or federal level, which does not equalize only certain minority groups to the non-discriminated groups but recognizes all citizens equal regardless of their characteristics and features. One of the most important internationally accepted anti-discrimination act that was ratified after The Universal Declaration of Human Rights is the Discrimination Convention of 1958, which prohibits all unlawful discrimination acts in employment. However, this convention had been ratified by 175 out of 187 ILO members. One important point is that the United States did not ratify the treaty, which led many Member States to be unwilling to apply the terms of the Discrimination Convention of 1958. The United States has never openly declared their reasons for not ratifying the treaty, but similarly the US also refused to ratify The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which was adopted in 1979 by the UN General Assembly. Even though 189 Member States have signed the treaty including most Arab states, who have specified that "they only agree to CEDAW to the extent that it doesn't clash with Sharia Law", only twenty Member States have ratified the treaty ("Convention on the Elimination of All Forms of Discrimination against Women"). When the reasons for the unwillingness of Member States to ratify these two conventions are scrutinized, there are two reasons: the fact that the US ratified neither of the

## RESEARCH REPORT

treaties and no power of sanctions for the violation of the agreements are within the conventions. Yet, it is possible to observe an increasing trend in the number of anti-discrimination laws and acts that have been ratified since 1948 compared to the pre-1948 era. Thus, along with the Universal Declaration of Human Rights, these two conventions had impacts for the rise in the number of anti-discrimination laws.

Although it is possible to observe an increasing trend in the number of anti-discrimination laws and acts that have been ratified since 1948, today even in the Member States with the highest freedom indexes, the number of discriminatory acts towards minority groups show an increasing trend. As an example, Washington Post reporters observed 253 percent increase in hate crimes against Muslims since 2012 in Canada, which has the highest freedom index. As mentioned in the introduction, charges of discrimination have increased by 23.9% since 1997 across the globe while race and gender are the main reasons for these charges. Especially, after 9/11, race discrimination increased drastically across the globe, indicating that the increase in the number of civil wars and religion or race based terrorism, led to the misconception of religion and race by the civilians and politicians, which accounts for discriminatory acts going on in various countries even though there has been a raise in the number of anti-discriminatory acts.

As mentioned, the other reason for the raise in discrimination charges is gender discrimination. According to The Economist, more LGBTQ people and women are working safely than ever before. So, what is the reason behind the increase in the discrimination charges based on gender? According to the theory of Suzanne Lucas, who has been an expert on Human Resources and Business issues, in fact gender discrimination that people are facing is not increasing, today people are much more well-informed about their legal rights on discrimination. Thus, increased awareness increases the charges even if, in reality, gender discrimination is decreasing. Yet, gender discrimination is still an issue that should be addressed considering the fact that approximately 110 Member States still have laws that do not prevent gender discrimination and, in fact, put restrictions on the employment opportunities of women and LGBTQ people.

In order to address the unequal opportunities of different groups within the societies due to discrimination, many Member States have adopted affirmative action laws, an idea which was firstly proposed by John F. Kennedy in 1961. Affirmative action is “favoring those who tend to suffer from discrimination”. Many nations oppose to this principle by stating that as affirmative action does not treat all groups equally within a society, it should be considered as illegal. Robert Nozick was one of the supporters of this idea as he stated that if a man is a member of a privileged class, that is not his fault, and why should he be not able to get jobs because of his features such as race and gender? One response that people have towards this idea is that justice isn’t always same as being fair. Another response to this idea was produced by Judith Jarvis Thomson, who stated that discrimination will always exist, thus discrimination that favors a historically underprivileged class is more likely to be accepted than discrimination that favors a more privileged class.

## RESEARCH REPORT

Affirmative action clearly has an impact in the process of equalization of historically discriminated groups and non-discriminated groups as roughly 51.5% of managerial and professional positions are held by women according to 2012 data (“11 Facts About Affirmative Action”). Yet, the issue of using a type of discrimination in order to combat unlawful discrimination is still a debated topic, which delegates should consider while producing solutions.

### Major Parties Involved and Their Views

#### **Office of the United Nations High Commissioner for Human Rights (OHCHR)**

OHCHR is a United Nations agency that was founded in 1993 and works to promote Member States to protect the human rights that are guaranteed under the international laws. OHCHR consists of four bodies, and one of them is The Human Rights Treaties Division (HRTD), which is responsible for supporting and monitoring Member States to implement human rights and anti-discriminatory treaties on national-level. OHCHR has a workforce of 689 human rights officers working in regional offices around the world. OHCHR is specifically active on combating racial discrimination. It especially supports human rights organizations aiming to implement anti-discrimination laws on race issues.

#### **The United Nations Entity for Gender Equality and the Empowerment of Women (UN WOMEN)**

UN Women is a United Nations entity working for women’s equality especially promoting Member States to ratify and implement anti-discrimination laws on gender issues. It works globally in the vision of Sustainable Development Goals. UN Women sees gender equality not only as a basic human right, but also as an achievement, which has huge socioeconomic outcomes. UN Women has an anti-discrimination committee, which examines Member States separately and monitors them on implementing anti-discrimination laws on gender issues.

#### **United Nations Human Rights Council (UNHRC)**

UNHCR is a United Nations body that was founded in 2006 and whose mission is to promote, protect, and implement human rights laws along with addressing human rights violations. UNHCR is an active body of the UN with 47 elected Member States and passed several resolutions for the implementation of anti-discrimination acts such as CEDAW and ICERD.

#### **International Labor Organization (ILO)**

ILO is a UN agency dealing with labor problems particularly caused by social issues. The Discrimination Convention, which prohibits all unlawful discrimination acts in employment, was drafted by ILO members and adopted by ILO. ILO views non-discrimination as a main principle in its code of practice. Currently, ILO is an active organization in LEDCs to implement

## RESEARCH REPORT

anti-discrimination laws in employment. During the recent years, ILO has monitored Namibia and South Africa for legislative change in labor law.

### **International Movement Against all forms of Discrimination and Racism (IMADR)**

Founded in 1988, IMADR is one of the few non-profit organizations (NGOs) that have special emphasis on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). It aims to combat racism, racial discrimination, and other discrimination cases across the globe. Founded by the Buraku people, Japan's largest minorities, IMADR has earned to have consultative status with the United Nations Economic and Social Council (ECOSOC).

### **Timeline of Events**

|                  |   |
|------------------|---|
| <b>1264</b>      | <i>The Statute of Kalisz, the very first anti-discrimination laws that had been ratified by a state, was signed by The Duke of Greater Poland Boleslaus the Pious, which granted legal rights to the Jews in Poland.</i>                                    |
| <b>1573</b>      | <i>Warsaw Confederation, which was the First European act granting religious freedoms in the Polish-Lithuanian Commonwealth was signed.</i>   |
| <b>1948</b>      | <i>The Universal Declaration of Human Rights, which recognized all human beings equal regardless of their certain characteristics, was ratified. This declaration became the first internationally accepted document to declare all human beings equal.</i> |
| <b>1958</b>      | <i>The Discrimination Convention, which prohibits all unlawful discrimination acts in employment, had been ratified by 175 out of 187 ILO members.</i>  |
| <b>1961</b>      | <i>President John F. Kenned signed Executive Order 10925, which implemented affirmative action laws.</i>  |
| <b>1969</b>      | <i>International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) has been adopted by the UN General Assembly.</i>   |
| <b>1973-1974</b> | <i>Robert Nozick published the book called "Anarchy, State, and Utopia", in which he opposed to affirmative action while Judith Jarvis Thomson published her essay called "Preferential Hiring", in which she supported affirmative action</i>              |

## RESEARCH REPORT

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|-------------|---|
| <b>1979</b> | <i>The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) has been adopted by the UN General Assembly.</i>  |
| <b>2001</b> | <i>With 9/11, race discrimination increased drastically across the globe.</i>   |
| <b>2006</b> | <i>Convention on the Rights of Persons with Disabilities has been adopted by the UN General Assembly</i>  |
| <b>2011</b> | <i>Charges of discrimination have increased by 23.9% since 1997 across the globe</i>  |
| <b>2012</b> | <i>Washington Post reporters observed 253 percent increase in hate crimes against Muslims since 2012 in Canada, which has the highest freedom index</i>   |
| <b>2015</b> | <i>According to The Guardian's Research approximately 110 Member States still have laws that do not prevent gender discrimination and, in fact, put restrictions on the employment opportunities of women and LGBTQ people.</i> |

### Treaties and Events

#### The Universal Declaration of Human Rights

Ratified in 1948, The Universal Declaration of Human Rights recognizes all human beings equal regardless of their certain characteristics, and this declaration became the first internationally accepted document to declare all human beings equal. With the year of 1948, one would be able to observe the inception of the ratification of anti-discrimination laws on state or federal level, which does not equalize only certain minority groups to the non-discriminated groups but recognizes all citizens equal regardless of their characteristics and features.

#### The Discrimination Convention

This document prohibits all unlawful discrimination acts in employment. It had been ratified by 175 out of 187 ILO members.

#### International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)

## RESEARCH REPORT

This convention has been adopted by the UN General Assembly in 1969. This convention defines racial discrimination for the first time along with prohibiting racial discrimination. This convention also obligates all Contracting States to condemn any act of propaganda on the superiority of one race or ethnicity.

### **The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)**

Adopted in 1979 by the UN General Assembly, CEDAW aims to promote Member States to incorporate the principle of gender equality and abolish all discriminatory laws that contain discrimination against women.

### **Convention on the Rights of Persons with Disabilities (CRPD)**

CRPD has been adopted by the UN General Assembly in 2006. This convention aims to adopt the idea that all types of disabilities must enjoy all human rights and fundamental freedoms. CRPD clarifies how all types of disabilities have the right to enjoy all fundamental freedoms and human rights. It condemns any type of unlawful discrimination against people with disabilities. This convention had the highest number of signatories in history to a UN convention on its first day.

### **Evaluation of Previous Attempts to Resolve the Issue**

As it was previously mentioned, although most Member States have drafted anti-discrimination laws along with ratifying most of the aforementioned treaties and declarations, charges of discriminations have increased by 23.9% since 1997 across the globe according to a report published in 2011 by The Equal Opportunity Commission (EEOC), meaning that the previous attempts were not very successful as the number of Member States with anti-discrimination laws and anti-discrimination charges are supposed to be directly proportional. We can have the following explanations for this failure: government's failure for the implementation of these laws, lack of deterrence in the laws, and rise in the dogmatic opinions of the public.

Especially after 9/11, increase in the number of civil wars and religion or race based terrorism, lead to the misconception of religion and race by the civilians and politicians, which accounts for discriminatory acts going on in various countries even though there has been a raise in the number of anti-discriminatory acts. Thus, it can be stated that even though most Member States have been developing in terms of Civil Rights, they are not successful in terms of responding to the recent political and ideological movements due to extremism. Thus, the government and international organizations should try to prevent the misconception of religion and race in media and education since having understanding towards different cultures will be crucial to prevent racial and religious discriminations.

## RESEARCH REPORT

Another reason discrimination charges have increased is that the aforementioned conventions and declarations were not that effective. The United States did not ratify most of the anti-discrimination conventions, which led many Member States to be unwilling to apply the terms of the treaties. Even though the US officials have never explicitly explained the reason, the most probable explanation is that most of the conventions had an obligation, which was to condemn any act of propaganda on the superiority of one race or ethnicity. This obligation would have led the US to condemn its own allies without wishing to do so, which can be regarded as an act of interfering with the sovereignty of the US. So, abolishing this obligation, and instead, “promoting” condemnation might be a better factor for the conventions.

Even though condemnation is an obligation, it can be stated that apart from condemnation, no deterrence is included in the conventions. Having no solid consequences if a Member State violates the agreement makes the conventions ineffective. However, it should also be kept in mind that having consequences within the conventions would violate states’ sovereignty.

Also, it should also be remembered that there hasn’t been any convention for preventing LGBTQ discrimination even though gender discrimination constitutes a large portion in the number of discriminatory charges.

### Possible Solutions

As previously mentioned, even though most Member States have been developing in terms of Civil Rights, they are not successful in terms of responding to the recent political and ideological movements due to extremism. Thus, the first step should be preventing the misconception of religion, race, and gender in media and education because having understanding towards different cultures will be crucial to prevent racial, religious, and gender based discriminations. However, it should be also noted that some media companies still have hatred comments against different religions, races, and genders. The governments should be promoted to filter these comments, or apply censorships if needed by paying attention to not violate the freedom of speech.

For purifying the society and government from prejudice towards different races, religion, and genders, another step is the mediation of the NGOs between government and discriminated portion of the society. This could lead the government to understand the situation of the discriminated groups and take the appropriate measures.

Another solution is to have amendments to the conventions. As it was mentioned previously, most of the aforementioned conventions had an obligation, which was to condemn any act of propaganda on discrimination. That was the reason that along with many Member States, the US didn’t ratify most of those treaties because they viewed that obligation as a violation of their national sovereignty. So, abolishing this obligation with amendments, and instead “promoting condemnation” might be a better factor for the conventions. In addition to such an amendment,

## RESEARCH REPORT

these conventions and the future conventions should also ensure state sovereignty in order to promote Member States to ratify the conventions.

It should also be noted that gender discrimination still covers a huge portion of the number of discrimination charges, and discrimination against LGBTQ community constitutes most of the charges. However, there had been no UN conventions on “the Elimination of All Forms of Discrimination against LGBTQ community”. Thus, promotion of drafting such a convention would be a crucial step.

The delegates should also consider their stance on affirmative action laws about whether it is an ethical and effective way to equalize discriminated and non-discriminated groups, or not.

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