

# THE ROLE OF INTERNATIONAL CONVENTIONS AND COVENANTS IN ACHIEVING ECONOMIC AND ENVIRONMENTAL JUSTICE: A CONCEPTUAL REVIEW

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## ABSTRACT

*This paper deals with the issue of effectiveness conventions and covenants as well as global goals that aim to achieve justice at international and national levels. The first part begins with a theoretical review of literature on how justice is defined by different scholars. The second parts present information and provide analysis regarding adopted international conventions, covenants, MDGs and SDGs goals that aim to promote the principles of justice. The analysis of effectiveness is based on to what extent countries actually meet and achieve their international commitments declared in United Nation conventions, covenants, and Millennium and Sustainable Development Programmes.*

**Keywords:** Effectiveness Conventions, Justice, Environmental Law.

## INTRODUCTION

The social injustice and rise of socio-economic inequality between people and societies are serious concerns for both developed and developing countries. Furthermore, the international governmental and non-governmental organisations across the world aim to achieve social justice, while the gap between high-income and low-income countries and within societies is growing year by year. To address the problem of social inequality and provide the principles of environmental justice worldwide, the United Nations have developed and applied a number of international conventions and covenants with different purposes. For example, Social Security Minimum Standards Convention (1952) and Equality of Treatment Social Security Convention (1962) aims to ensure minimum standard of social security provisions such as medical care, sickness benefits, unemployment benefits, family and maternity benefits; International Covenant on Civil and Political Rights (1966) recognises and promotes a respect of civil and political rights to all individuals; Convention on the Elimination of Racial Discrimination (1969) prohibits any forms of national discrimination and promotes common understanding between nations;

Convention on the Elimination of All Forms of Discrimination Against Women (1979) protects all women rights; Convention on the Rights of the Child (1989) is intended to provide education, health and other rights of children; Convention on Protection of the Rights of Migrant Workers (1990) aims to guarantee and protect the right of all migrant workers. In addition to international conventions and covenants, the United Nations' member states approved Millennium Development Goals (MDGs) with following purposes: reduce poverty, improve equal access to socio-economic opportunities, halt the spread of diseases, and provide sustainable environment for living of everyone. More recently, in 2015, the United Nations and 193 countries adopted 17 goals and 169 targets that are well known as Sustainable Development Goals (SDGs). The SDGs aim to reduce poverty, provide equal access to all opportunities, and protect environment and living conditions by 2030. This essay is divided into two parts. The first part begins with a theoretical review of literature on how justice is defined by different scholars. The second parts present information and provide analysis regarding adopted international conventions, covenants, MDGs and SDGs goals that aim to promote the principles of justice. The analysis of effectiveness is based on to what extent countries actually meet and achieve their international commitments declared in United Nation conventions, covenants, and Millennium and Sustainable Development Programmes.

### **Definition of Justice**

Due to philosophical and transdisciplinary nature, there are different definitions of social justice and debates on the questions of what social justice is (Reisch, 2002) critically reviewed a number of studies focusing on the concepts and definitions of social justice. From his study, it can be seen that social justice concept is not modern concept and it has a long history from the time of Plato and Aristotle to contemporary time. Plato was the first European philosopher, who created a concept of social justice and published the key points of social justice concept in his famous monograph "*Republic*". He considered social justice in two forms: ethical-in relation to individuals (the equal rights, dignity of any people and solidarity must be respected and distributed) and social-in relation to the social group of population. Considering social justice, Plato noted that, on the one hand, social justice is possible between citizens within each social groups of population, and on the other hand, injustice between representatives of different social groups is also possible. In his opinion, there will be no inequality in an ideal state, men and women will be equal in rights. Interesting, Aristotle, as a fellow of Plato, continued Plato's socio-political studies, but in his book "*The Nicomachean Ethics*" he offered a completely different, and conservative, and aristocratic view on what social justice is. According to Aristotle, social justice deals with relationship within society and it must be distributed proportionally across the social groups. Aristotle also proposed concept of political justice that based on laws and domestic justice that relied on respect. Both Aristotle and Plato believed that social justice is important element of policy of any states and society. The actions around social justice should lead to a better live in society. Since Aristotle and Plato time, the concept and meaning of social justice has been changed.

In present day, according to Reisch (2002), context of social justice has been significantly changed compare to Plato and Aristotle's vision and it includes new practical principles, procedures, and dimensions (e.g., political, economic, environmental, human right and even religious dimensions). The changes in understanding of social justice have brought some

uncertainties regarding conceptualisation of social justice in particular what social justice is and how it should be defined. In an extensive review paper “*Social justice and social inequalities*”, another scholar Barak (2015) also showed different concepts of social justice from different perspectives. In terms of distributive justice, Barak (2015) in his review paper showed that social justice can be conceptualised in broad aspect as:

*“The fair distribution of opportunities, rewards and responsibilities in society, as well as principles and institutions for the distribution of meaningful social goods income, shelter, food, health, education, the freedom to pursue individual goals”.*

Barack (2015) listed some components of social justice including social values (equal rights, freedom, opportunities, power, rewards, recognition), moral values, quality of life, information, ethnic, religious and cultural values, freedom from racism, sexism, and discrimination, and distribution of power and wealth among all individuals within society. Dinga (2014) in paper “*Social Capital and Social Justice*” stated that social justice is:

*“The final distribution of results of society (wealth, jobs, service, opportunities and other goods) among the different persons and social classes and within the nation based on the principle of fairness”.*

Ashman & Elkins (2012) defined social justice as a concept in which justice is achieved through individuals and social classes receiving equitable and fair share of benefits of society. In contrast, Von-Hayek (1976) written a book “*The mirage of social justice*”, in which he argued that distributive social justice does not exist especially in the countries with market economy as income distribution in market economies is not regulated. Therefore, according to Von-Hayek (1976), social justice seems like utopian idea.

On the other side, scholars Sensoy & Di-Angelo (2012) rejected traditional understanding of social justice and recognised the fact that all countries and any societies naturally have differences and inequalities. Thus, all countries and societies face social injustice; and social justice itself is not practically realisable and achievable. Sensoy & Di-Angelo (2012) use the term “*Critical social justice*” and argue that:

*“Society is stratified (i.e., divided and unequal) in significant and far-reaching ways along social group lines that include race, class, gender, sexuality, and ability. Critical social justice recognizes inequality as deeply embedded in the fabric of society (i.e., as structural), and actively seeks to change this” (Sensoy & Di-Angelo, 2012).*

Many scholars view on social justice not only from perspectives of distribution of the social results on the basis of fairness, but also from perspective of participation and involvement in decision-making and policy-making process. This concept of social justice is called associational justice. Recently scholars, Fouad et al. (2006) have defined social justice with focus on non-distributive social principles. According to Fouad et al. (2006) social justice must implicate

*“...actively working to change social institutions, political and economic systems, and governmental structures that perpetuate unfair practices, structures, and policies in terms of accessibility, resource distribution, and human rights” (Fouad et al., 2006).*

Authors claimed that the real value of any social state is based on fair distribution of goods and service and it involves state's activities to protect the social rights of people and social classes in

different areas of public life. It is provided by the development of social policy, which aims to regulate and harmonize interests for sustainable and balanced development of society. Social policy helps to increase inclusion of the population and overcome the injustice of social relations.

### **The Role of International Conventions and Covenants**

To address the problem of inequality, the United Nations developed and applied a number of international conventions and covenants. All these documents recognise the importance of three issues of justice including equality of rights (everywhere and always), equality of opportunities, and acceptable standard of living condition for all individuals and social classes. In particular, the International Covenant on Civil and Political Rights (1966) sets principles and framework to promote all forms of rights including self-determination right, electoral right and right fair trial. Also, this Covenant includes right to work, which means that all individuals must have opportunity to earn a living income. Social right outlined in the Covenant includes the education right. According to Convention, primary education must be universal, compulsory, and free, while secondary education must be generally accessible, and available in multiple forms. The Covenant outlines the citizens' right to participate to cultural life and to enjoy the benefits of scientific research and creative activities in their societies. According to information from "*World Report on Human Right*" (Human Right Watch, 2017), most of UN members have signed and ratified covenant on Economic, Social and Cultural Rights, although the United States and South Africa have signed the Covenant, but not incorporated into national laws and social programmes. China, Pakistan and Cuba have signed the Covenant on Civil and Political Rights (1966) but not ratified it into national laws. Oman, Bhutan, Myanmar, Saudi Arabia have not signed it all. Additionally, many of states have signed, ratified and made some national changes in the Covenants. For example, China has excluded many labour right, explaining this situations as a conflict of constitution and national laws. Some Middle East countries have accepted only some articles of the Covenant that have similarities with Muslim Sharia Law. Some countries criminalise homosexual right violated individual right as well as main principles and purposes of Covenant. According to the Convention, countries are obligated to provide periodic reviews of the Convection's performance in meeting commitments on the basis of regular national reports. In fact, the mechanism of monitoring for implementation of the Convention serves as feedback to ensure the continuing effectiveness of the Convention's to solve social justice concerns. However, as pointed out by critics from Human Watch Organisation national self-reporting and monitoring systems has raised a problem of reliability in light of the political interferences and outright cheating. In addition, in case of violations of human rights, the Committee makes recommendations for the improvement of the human rights situation. However, Human Watch Organisation believes that the Covenant is ineffective because it has only advisory character and it does not include sanction mechanisms that can be applied in the case when ratified UN members violate principles of Convention. In general, experts from Human Watch believe that the Conventions has unfortunately limited influence on national policies and changing the behaviour of states at the level of domestic human right policies and regulations. Since International Covenant on Economic, Social and Cultural Rights in 1995 approved by UN General Assembly, the Human Watch Organisation reported that some objectives of the Covenant have partly been achieved, while objectives related to socioeconomic inequality and human right have become worse.

The Convention on the Rights of Persons with Disabilities is another key international treaty designed to ensure that people with disabilities fully involve in social, cultural, economic, and political life of countries their living. The Convention provides general social principles and rights including important issues such as prevention of discrimination, accessibility to resources, equality of opportunity, dignity and individual autonomy, legal capacity, education right, health right, participation rights, expression and opinion right. The Convention has the general obligations that States parties must develop and apply all appropriate institutional mechanisms for the meeting the main purpose of the Convention; do cancel of all existing laws and regulations, which are discriminatory towards persons with disabilities; develop and apply policies and programs to protect and promote the rights of persons with disabilities. It is specially stated that during the development and applying the norms of legislation and strategies for persons with disabilities, participating States consult with persons with disabilities and actively involve them through organizations representing persons with disabilities. To monitor implementation of this convention, the specific Committee on the Rights of Persons with Disabilities was established and countries that ratified the Convention were obligated to provide reports on the Convention implementation. The Convention was ratified by 173 nations worldwide, while 16 countries not made legally binding the Convention so far and many other nations continue to limit or ignore the application of the Convention. Furthermore, some authors criticise some conceptual aspects of the Convention (in particular its definitions of “*disability*”, “*legal capacity*”, “*discrimination*”) as well as inconsistencies and shortcomings in the Convention (Pozón, 2016). Authors stated that the some important fundamental rights declared in the Convention might be violated and resulted in unintended consequences such as increasing discriminations, ignorance, and fear (Freeman et al., 2015). Moreover, there are different international institutions that involved in realisation of principles of Convention on the Rights of Persons with Disabilities; however, despite the many international and national institutions that promote the implementation of the rights of persons with disabilities, their activities are still fragmented and ineffective. Nowadays, persons with disabilities continue to face social discrimination in both developed and developing countries. As stated in report from Human Right Watch (2016), disabled people are often unemployed, invisible and marginalised in both developed and developing countries. For example, it has been estimated that over 1.6% of the Kazakhstan's total population are suffering from one or the other kind of disability and long term illness. In fact, Kazakhstan ratified the International Conventions on the Rights of Persons with Disabilities in 2012. The basic principles of this Convention have been integrated in number of legislative and political framework in Kazakhstan. For example, the Kazakhstan Constitution declared that the Kazakhstan is a social state. The main objective of the country's social policy is to provide the rights and the principle of social justice, universal solidarity and mutual responsibility. Additionally, number of federal programmes have been developed, for example, State Programme “*Accessible Environment*”; however, according to report “*Left Out? Obstacles to Education for People with Disabilities*”, people with disabilities are still facing discrimination in receiving any formal education and other vital social provisions (Human Right Watch, 2015). 78% of disable people in Kazakhstan do not hold any formal education; this number is significantly higher compare to average number in European Union (22%). Apart from that, the last study (Natsun, 2016) confirms that people with disability in Kazakhstan completely not involved in civil and political life of country.

In addition to international conventions and covenants, the United Nations developed and adopted specific Millennium Development Goals (MDGs), which aims to reduce poverty, improve equal access to socioeconomic opportunities, halt the spread of diseases, provide a sustainable environment for a living of everyone and reduce the inequality within and between countries (United Nations, 2015). More recently, in 2015, the United Nations and 193 countries adopted Sustainable Development Goals in particular 17 global goals and 169 targets across different aspect of life including poverty, health, child mortality, hunger, education, gender equality, climate change, water resources and sanitation, affordable and sustainable energy, employment, decent work and economic growth, sustainable urbanisation, and strong governance (United Nations, 2016).

At the end of 2015, the UN summed up the results of the Millennium Development Goals. According to the published report "*The Millennium Development Goals Report 2015*", considerable success was achieved and many of the goals were met (United Nations, 2015). It can be seen from UN report that a number of children not attending primary schools has declined from 102 to 57 million children between 2000 and 2011. International organisations state that situation with equal access to education for everyone has been improved; however, there are some problems with access to higher and vocational education mainly in developing countries. Furthermore, the progress has been achieved in female employment. In fact, 40% of women work outside of agricultural sector in 2014. The percentage of female working in policy making organisation has reached 20% in the world. The treatment of tuberculosis saved about 20 million lives between 1995 and 2011. However, some independent experts assessed the impact of MDGs and stated that international community has actually failed to achieve MDGs (Manning, 2009). For example, the child mortality rate under the age of five years has decreased by 47% since 1990; however, the rate of child mortality is still high with more than 5 million children died every year. Global carbon emissions have increased by more than 50% since 1990. Almost a third of the fish stocks in the sea were absorbed excessively intensively, world fishing cannot guarantee a sustainable catch. More and more species are threatened with extinction, despite the expansion of protected areas. Forests, especially in South America and Africa, are disappearing at a speed alarming. The share of people living in poverty has declined; however, 870 million people or one-eighth of the world's population is still having insufficient food and other substances for good health and condition (World Bank, 2014).

## CONCLUSION

In terms of theoretical perspectives, it can be seen that there is not commonly accepted international interpretation and definition of what justice is. Different scholars propose and apply several concepts and definitions of social justice from different perspectives. It is also very hard to draw clear conclusion are international social justice policy framework including conventions, covenants and United Nations goals effective. Some experts believe that the UN conventions remain relevant, promoting social justice, but they have to be updated. As stated by experts that some international conventions have limited influence on national policies and changing the behaviour of states at the level of domestic human right policies and regulations. In particular, moving from MDGs (8 Goals, 21 targets and 60 indicators) to SDGs (17 Goals, 169 targets and 230 indicators) is a more integrated and ambitious global development agenda. Principle «No one should be left out» focuses on the disaggregation of SDG indicators as a priority for

statisticians. In fact, although some countries have signed the UN conventions and adopted MDGs and SDGs, at the same time these countries have not taken legal and technical steps for implementation of these conventions and meeting goals, while other countries have taken legal steps, but absolutely have fallen to made significant progress. Government of Republic of Kazakhstan has initiated SDG implementation, since the end of 2015: National meetings and consultations of experts on the issues of SDG implementation; National strategy documents and their interconnections with SDGs are being analysed; State bodies responsible for SDG implementation are being identified. Situation of the SDG indicators in Kazakhstan: number of global SDG indicators-230; currently being implemented-74 (32.2%); is not implemented, but there is raw data for estimation-32 (13.9%); missing-124 (53.9%). Master-plan for 2017-2025 is being developed, which includes the work on SDG indicator implementation as one of the priorities for the national statistical system. A 3-tier National action plan on SDG implementation is going to be developed. Lessons learned on MDGs should be included in the first phase of the SDG implementation (participation of all stakeholders in the initial phase of implementation, timely submission of methodologies, and coordination in differentiating country statistics. Apart from that, despite the fact some countries have ratified conventions; many provisions of conventions have been ignored and violated. In this case, the UN conventions and SDGs do not provide any additional actions that might be required to force all countries keep following the main principles of the conventions. However, looking at what objectives have been achieved so far, it can be seen, from independent international reports that in general, the significant progress in providing social justice has been made. However, this progress has been observed in developed industrialised and high-income countries, where there is strong democratic environment, high standard of political right and stable economic development. At the same time, developing countries signed and ratified number of international conventions and covenants. The principles of these international documents have been integrated into national institutional and legislative framework as well as national programmes; however their implementation remains significantly weak. Despite the fact that more than 50 years have passed since the first Convention on Human Right was adopted by international community, and many other political efforts have been applied since this time, however, the current situation with human right and social justice including unequal wealth, resource and opportunities distribution remains problematic at global, national, regional, local levels and within the social groups.

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