

GENDER ANALYSIS - AN EFFECTIVE TOOL TO IDENTIFY HUMAN RIGHTS VIOLATIONS AMONG SOCIAL GROUPS

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Abstract: Human rights are those minimum rights which an individual acquire from birth as a member of human family. The Constitution of India also provides equality among individual in Article 14 and Article 15 but in reality there exist a wide gulf between theory and reality. The complex architecture of human rights creates opportunities as well as obstacle. This can be seen among a social group which include women, children, lesbian, gay, bisexual, and transgender (LGBT). Today, there is serious need to introduce human rights unto combating discrimination based on sexual orientation and gender identity. Some say that sexual orientation and gender identity are sensitive issues. I understand and address the challenges before it and giving it on test of litmus paper. Many states have made a determined effort to strengthen human rights protection for various social groups. Universal Human rights declaration is been adopted but still there are loopholes, where over half a million women continue to die each year from various diseases. Gender based violence kills and disables as many humans and it's a cancer addicted to our society. This reality is been challenged herein this paper. This paper has talked about how after many laws still rights of many of social groups are at stake and even basic livelihood rights are not addressed to them.

Introduction: Human Rights are rights in shape of individuality exit in India from the time immemorial and it has been a matter of concern too. The concept of rights and particularly fundamental rights was always known to the people of earlier period. The Babylonian Laws and the Assyrian laws in the Middle East, the "Dharma" of the Vedic period in India and the jurisprudence of Lao-Tze and Confucius in China, have championed human rights throughout the history of human civilization. Human rights are those minimum rights which are compulsorily obtainable by every individual as he/she is a member of human family. In order to live with dignity certain basic rights and freedoms are necessary, which all human beings are entitled to, these basic rights are called Human rights. On 10 December 1948, the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights as under: "All human beings are born with equal and inalienable inalienable rights and fundamental freedoms." "The United Nations is committed to upholding, promoting, and protecting the human rights of every individual. This commitment stems from the United Nations Charter, which reaffirms the faith of the peoples of the world in fundamental human rights and in the dignity and worth of the human person." The Indian Constitution also presented its Fundamental rights which are defined as basic human rights of every citizens. In India, there are multiple ways of protecting human rights. The parliament and the executive are entrusted with the creation and implementation of the law of the land, while the judiciary protects its execution. Human rights are protective sphere for those who struggle to find their position in this life and society. Human rights group are playing their parts in maintaining a balance

between every individual, gender, caste etc., through clamour slogans. LGBT rights have also been a burning issue which are also been considered as same as an individual in our country and is been considered as a part of working and live society and as third gender and there human rights are also major part to play a role in there upliftment and recognition in a nation.

Women Rights In India: Understanding Reality: Rights for women is been an concern for many years and so on for India and this paper will try to show a glimpse of what reality does this nation owns as an ground reality and is there is adherence to Human rights law to this theory. The irony lies in the fact that in our country where women are worshipped as Shakti, the atrocities are committed against her in all sections of life. The women are being considered as an object of male sexual enjoyment and reproduction of children. To tackle such issues from roots to leaves an Empowerment word for empowering women and allotting them their actual basic rights the fight has begun. Women empowerment as a concept was introduced at the International women Conference in 1985 at Nairobi, which defined it as redistribution of social power and control of resources in favour of women. Development Fund for Women (UNDFW) includes the following factors in its definition of women empowerment:

- Acquiring knowledge and understanding of gender relations and the way in which these relations may be changed.
- Developing a sense of self-worth, a belief in one's ability to secure desired changes and the right to control one's life. But in India the empowerment seems to be just a paper work where we see the women, girls are molested and stalked and abused every second and reality is much worse than it seems

to be. In India, rapes are reported every 22 minutes. Purnima Nagaraja, a psychiatrist who has counselled numerous rape survivors in India, has said that rape occurs in her country because “it is a manly thing to subjugate the weaker sex”. Additionally she notes that the rising position of women in society has created insecurities for men. A narrative that is present in India, as in other countries, is that while the man may be responsible for the rape, it is the woman who dressed inappropriately, or led him on in some way. The Constitution of India in its stated articles have many a times mentioned the power allotted and empowerment of women is concern to the issues are clearly glimpsed. The Preamble to the Constitution has recognized women as a class by itself and allows laws and reservations favouring them. But the failing reputation is serious concern for the nation where the is rape, sexual assault, sexual harassment, domestic violence, cheating etc. are not only increase in numbers but also in intensity and brutality. Judiciary has from decades to decades have helped in its handwork to uplift and provide a special status. In *Muthamma v. Union of India* and *Air India v. Nargesh Mirza*, the Supreme Court of India has struck down the discriminatory service conditions requiring female employees to obtain government permission before marriage and denying married and pregnant women the right to be employed. Everyone knows that the quality of words expressed by the Supreme Court of India. There are many attempts made through our Constitution to provide a protective Human rights sphere around the women. The constitution makers were well aware of the subordinate and backward position of women in the society. The state is directed to provide for maternity relief to female workers under Article 42 of the Constitution, whereas Article 51-A declares it as a fundamental duty of every Indian citizen to renounce practices to respect the dignity of women. Indian Parliament has passed the Protection of Human Rights Act, 1993 for the proper implementation of Article 51-A. Indian Parliament over the years have taken significant steps for through legislations to achieve the goal of empowering the women in India. The significant among them are the Equal Remuneration Act, the Prevention of Immoral Traffic Act, the Sati (Widow Burning the rights of) Prevention Act, and the Dowry Prohibition Act etc. Apart from these, the 73rd and 74th Constitution (Amendment) Acts 14 provided for 33% reservation for women in both panchayat and Nagarpalika institutions as well as for the positions of chairpersons of these bodies. These two amendments removed the bottlenecks from the paths of women empowerment at the local level. In order to facilitate equal participation of women at the national and state level politics, the bill providing for 33%

reservation of seats for women in national and States legislatures has been introduced in Parliament 15. Besides this, the government in India have enacted a variety of laws like Dowry Prohibition Act, Sati prevention Act etc. to guarantee the rights of the women.

LGBT on Want of Right?: Many different terms are used to describe the community of people that express sexual or gender identities that differ from male/female heterosexual. For the sake of clarity and brevity, the term LGBT (lesbian, gay, bisexual, and transgender) will be used for this guide.

Where-ever the eyes of Human Rights go on this context LGBT are subjected to abuse, routinely harassment and discrimination from the so called moral society. No legal recourse are provided to the persuasive discrimination faced by the gay people and they tend to live in fear. In *Bowers v. Hardwick* with *Lawrence v. Texas*, for the first time the Court explicitly protected the rights of LGBT individuals by holding that Texas anti-sodomy laws violated the right to liberty under the Due Process clause of the Fourteenth Amendment. Most LGBT activists and lawyers considered this decision a major victory in the LGBT movement. “If there is one constitutional tenet that can be said to be underlying theme of the Indian Constitution, it is that of ‘inclusiveness’. This Court believes that Indian Constitution reflects this value deeply ingrained in Indian society, nurtured over several generations. The inclusiveness that Indian society traditionally displayed, literally in every aspect of life, is manifest in recognising a role in society for everyone. Those perceived by the majority as ‘deviants’ or ‘different’ are not on that score excluded or ostracised.” Sexual acts are burdened with an excess of significance.” In criminalising homosexual acts, Section 377 has meant that those practising them have had to remain at the margins of society, their sexual preferences and activities kept secret from families, communities and the authorities, for fear of blackmail or prosecution. In December 1999, the film *Fire* was released in India's major cities. This was the first Hindi film dealing largely with a lesbian relationship. Although it was passed by the National Film Censor Board, thugs supporting the Hindu fundamentalist group Shiv Sena reacted by vandalising cinemas, attacking movie-goers, and demanding, in vain, that the film be banned. According to Ramasubban, the Shiv Sena denounced the film for obscenity and for violating Indian cultural norms. The failure of the courts to distinguish between “two very different situations”, of non-consensual sex and consensual sexual relations, as Philips has argued, implies that “male adult seducers or abusers of young boys, men who forcibly rape other men and male homosexuals (who indulge in consensual sexual activities) are all one and the

same thing". Homosexual acts become abominable activities lacking the equivalent of "consensual heterosexuality" and therefore incomparable. But there has also been a perceptible change in attitude in other parts of the world, where the sexual orientation of consenting adults is no longer considered the state's business. Not only has gay sex been decriminalised in many countries, corollary freedoms like same-sex marriages have also been granted. In many places, transgender orientations have also been recognised in law. Many of the more progressive lawmakers were surely responding to social pressure when they realised voter's favoured decriminalisation. Even in Russia and China, where voter preferences aren't particularly important, decriminalisation has occurred in theory and the change must have been driven by social attitudes to some extent. What changed and why? Prejudices against gays, lesbians and transgender folks are deep-rooted. These prejudices also have religious sanction. Same sex relationships are condemned as "unnatural" in most religions. Religious people tend to form extremely vociferous lobbies everywhere and most religious groups continue to condemn same sex relationships very loudly.

Conclusion: Human Rights Law has owned a great space in domestic laws of various countries and its major role is find in protective the basic rights of individuals struggling to breathe a fresh air of Freedom and human dignity. Human right concept is mainly to improve the existing human dignity and keep a balance between sovereignty and Human

dignity. The paper also seeks to operationalize a rights perspective which pays attention to inequality and discrimination which are the underlying causes of women's disadvantaged positions. Mainstreaming human rights into developmental work ensures that data is disaggregated by sex and ethnicity and making sure that women are visible in budgets to the "maximum extent of available resources" as required by the CRC. Further, the paper uses gender analysis as a means of identifying violations and obstacles to the realization of rights that might otherwise remain unacknowledged. Gender analysis then becomes an effective tool to map conditions that result in gender discrimination. At a recent public debate in Delhi on the 377 judgement, moderated by ex-Attorney General Soli Sorabji, how the judgement had radically transformed the terms of debate was explained by Professor Shohini Ghosh.²³, the question was no longer whether homosexuality "harmed" abstract notions of family values and social fabric but about how the provisions of 377 had harmed members of the LGBT community by marginalising, oppressing and exploiting them. Lastly, by doing so it had introduced, for the first time in South Asia, the idea of sexual citizenship. The spirit and contents of the UN and International Conventions on the subject have been, by and large, honoured through executive as well as judicial intervention. By this means, the country has evolved a practical balance between human and humanitarian obligations on the one hand and security and national interest on the other.

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