

## **Human Rights: Distinction between Human Rights of Men and Human Rights of Women Makes Very Little Sense**

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**Abstract:** *Human rights are those rights that the man and women inherit as a human being. Meaning that, being a human being they are subject to the protection of certain universal rules and regulations. As these rights are common for all human beings, they are generally called inevitable rights. Equality of human rights is an important method for the protection of human rights in national and international perspective. If the human rights do not equally cover all humanity at large, the concept of human rights makes no sense. As a human being both man and women are subject to the enjoyment of certain rights particularly the fundamental human rights like right to get health food, water and sanitation, right to get proper education, healthcare and decent works as well as the right to property, housing, shelter and freedom to perform their religion. In this regard the distinction between the rights of man and women makes very little sense. However, being the vulnerable sects of the society some specific rights of women like freedom from torture, violence, trafficking and inhuman behavior shall be protected for ensuring equality and universality of the human rights.*

**Keywords** – Human Rights, Human Rights of Men, Human Rights of Women, Women empowerment, Equality of rights

**Research Area:** Social Science

**Paper Type:** Research Paper

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### **1. INTRODUCTION**

Human rights are those rights that the man and women inherit as a human being. Meaning that, being a human being they are subject to the protection of certain universal rules and regulations. As these rights are common for all human beings, they are generally called inevitable rights. Moreover, human rights are those rights which shall provide equal protection to everyone and shall not be subject to violation by any individual man and by the lawful authority except applying the due process of law which is not incompatible with the fundamental rights of human being. Ancient people did not get the opportunity to observe the advantage of the modern day human rights as the basic movement of the human rights developed by the United Nation General Assembly through the Universal Declaration of Human Rights 1848 after the holocaust of the World War II.

### **2. HUMAN RIGHTS OF MEN AND WOMEN**

Though guillotine might be the curse of the French revolution but the blessing of the French revolution shall be the Declaration of the Rights of Men and Citizens adopted in 1789. The first article of the Declaration stated that all men are free and they are equal in respect of their rights. Therefore, the declaration of 1789 was biased respecting gender of the human being. However, in the preamble of the Universal Declaration of Human Rights replaced the

term 'men' by 'human being' and stated that, all human beings are treated as free and equal in rights and dignity irrespective of their gender. In spite of this, professor Loenen argued that men are particularly emphasized by the term human being as the problems of men are generally concerned after the holocaust of World War II. In addition to that, professor Loenen emphasized that domestic violence, which is common both in national and international level, has not been given significant importance by the International Bill of Human Rights. Moreover, respecting right to work the UN declaration has given emphasis on male workers rather than female workers as the right to give care was not given major importance in the declaration. Loenen concluded that, to ensure universality of the human rights the biasness on the ground of gender should be thrown away. Nonetheless, Eleanor Roosevelt acknowledges that, the Universal Declaration of Human Rights was drafted for the protection of all human beings irrespective of their race, sex, religion, sexual orientation, region etc. This declaration is extended to all people of the world and a valid common standard for all human being around the world. Under the general human rights treaties significant attention was not given to the women at large. Therefore, a specific human rights law for the women at large was expected for a large period of time. However, the rights of women are given special emphasized protection by the Convention on the Elimination of All Form of Discrimination Against Women (CEDAW), which was adopted in 1979 but came into force in 1981. Under this convention states parties are under an obligation to eliminate all form of discrimination against women in the respective countries, which will create universality around the world.

Equality of human rights is an important method for the protection of human rights in national and international perspective. If the human rights do not equally cover all humanity at large, the concept of human rights makes no sense. Therefore, equality and universality of human rights are synonymous to each other but is not synonymous to uniformity. However, in most of the democratic countries majority has the power to determine the rights of the minority which the courts have to show their respect, may be detrimental for the minority at times. Though the Universal Declaration of Human Rights (UDHR) ensures equal dignity and right for all human being, but in practice equal in dignity and equal in rights are not same. Equality does not mean that we all are same rather we all are different from each other in a special way but we have some common factors that make us all human being. Therefore, we all should be treated with dignity and respect and should treat other in the same way. As such, equality in rights is not similar with equality in dignity. However, Article 1 of UDHR can be analyzed from three perspective- liberty (which ensures freedom for all human being), equality (which ensures equality of rights and dignity for all human being) and solidarity (which ensures brotherhood among the human being).

### **3. EQUALITY OF RIGHTS**

All human beings are equal in dignity and rights; this view has been recognized by the Universal Declaration of Human Rights. However all rights are not equally entertained by all the human beings. For example, respecting the right to health care people of the rich states are much more advantageous position than the poor countries. Therefore, the economic condition of a state plays a significant role in respect of ensuring the universal human rights for its citizens. Apart from the basic necessities of the basic rights of the citizens, assurance of the fundamental rights or the civil or political rights of the citizens are also vastly dependent on the socio-economic condition of the state. In this regard, the rich countries are also in the advantageous position than the poor states as well. Therefore, it can be argued

that, human beings are not equal in dignity and rights as their rights are at times deprived of depending upon the socio-economic condition. Moreover, for the assurance of equal rights of all human being and universality of the rights, basic human rights and fundamental human rights should be ensured irrespective of gender, race, region, culture, and socio-economic conditions bearing in mind that we all the human beings are the children of one mother.

### **3.1. RIGHTS OF WOMEN**

All human beings should get equality and equal opportunity before law irrespective of their age, gender, culture, race, region and sexual orientation. Therefore, law should protect women from violence that may occur under the cover of privacy. Law should protect man and women in the same way in respect of human dignity and bodily integrity. Women rights should be considered as human rights and the violation of women's human rights though sexual violence, trafficking, female genital mutilation and sex discrimination should be given significant importance. However, equality in rights cannot be ensured without penetrating in the conditions of privacy as women in the society are not always equal in rights. Significant numbers of women in the society particularly face domestic violence, sexual crimes, forced prostitution etc. Universality of rights cannot be ensured without ensuring the equality of the rights of the women in general. However, violence against women may result inhuman behavior against women and their rights not to be tortured, right to life and healthcare, not to face cruel behavior and their physical and mental integrity shall be protected for ensuring universality of the rights of the women. Apart from this, criminal justice system is not always women friendly, like that of men women has the right to get equal protection of law and to get fair justice through an impartial court or tribunal. In respect of the litigation procedures concerning rape or sexual violence women are seen in a more vulnerable position in most of the cases. Criminal justice system is not always compatible with the rights and integrity of the women. Therefore, to ensure universality and to protect the rights and dignity of the women at large major concentration shall be given in respect of equality of women and the criminal justice procedure.

### **3.2.FREEDOM OF RELIGION**

In respect of religion, Article 18 of the International Covenant on Civil and Political Rights ensures that every individual is free respecting their thoughts, religion and conscience, which includes that every individual is at liberty to perform and practice their religion either personally or in the community. However, the 'Burqa' ban issue in Belgium is significantly connected with the freedom of religion and freedom from gender discrimination as well as equal rights of each gender. Equality of rights means that all human being shall have all the universal rights irrespective of their culture, gender, religion, ethnicity, age, and social status. However, the society from the ancient period of time created some apparatuses to make hierarchies between men. As such, the equality of rights is not universal as it was anticipated. Moreover, biasness might be probable when the majority of the society is vested with the authority to determine the rights of the minority as his may not always reflect the better interest of the minority. In respect of majority decision, the courts have nothing to do without showing respect to it, which may also lead to a miscarriage of justice. For example, in respect of 'Burqa' ban the Belgian Constitutional Court provided its judgment being greatly dependent upon the bold cultural statements rather than any legal precedents. According to its view, appearance in public without lifting the face veil makes social life impossible and it is required in a democratic society. However, an empirical research shows that, women wearing

face veil are ordinarily associated with others in the society and they are not intended to withdraw from the society rather they are performing it as a command of their religion. Nevertheless, the arguments in favour of the ban are that, the women who are wearing face veil are generally forced to do so, so that they may not tempt man and the ban will liberate the women in the society from oppression as well as that the other women who do not wear veil will not feel offended. Both the arguments were proved wrong by the empirical research. However, it is apparent from all the interviews that, the women who are wearing face veil in France and Germany have chosen by their free will, in order to perform their religion though they have got negative impression from the neighborhood and society, even from their family members. The ban actually denied the autonomy of the women in the name of empowering it. As it is observed in France and Belgium after the ban that, women who were used to wear face veil restricted themselves to their homes and they have limited their social interaction and most of them feel uncomfortable in public without their face veil. Therefore, in the name of empowering and liberating the women, their social life and mobility has been curtailed of.

In July 2014 the European Court of Human Rights in the case of *S.A.S. Versus France* held that, the 'Burqa' ban in France is not inconsistent with the right to religion and the right to respect private life (Article 8 and Article 9 of the European Convention of Human Rights). On the other hand, the Belgian Constitutional Court held it as not unconstitutional as the ban is necessary for the society and the democratic society requires visibility of face as a reflection of individuality. According to Aristotle, it is not always possible for the legislator to observe the verdict of every individual citizen of the society; therefore, it is expected that the judges will fill up the gap through observing the verdict of every citizen. However, the European Court of Human Rights is not seen always against the rights of the women, as in 2010 the court held that Hungary has violated the human rights enshrined in Article 8 the European Convention of Human Rights by violating the rights of a women in respect of the choice where to give birth. In this case the woman was interested to give birth to her home which was against the governmental policy of the Government of Hungary to provide healthcare facilities for giving birth at home. In this case the right of the woman was protected by the European Court of Human Rights. Moreover, the European Court of Human Rights is found to a great extent relaxed for the protection of the rights of same sex partnership and second parent adoption. Irrespective of their sexual orientation as a human being their rights are protected to a great extent.

However, it is always argued that the freedom of religion is not always well protected by the international authorities. For example, it is argued that ban on religious dress code by the Court or by the government is inconsistent with the freedom of religion but not well protected by the international authorities. But the same sex partnership, cohabiting partnership, transsexual partnership is contrary to the major religious views all over the world which are well protected by the international authorities. The arguments in favour of the LGBT groups are that they are human being and therefore their rights shall be protected irrespective of their sexual orientation and the second approach is the adoption of the hate the sin but love the sinner view. If the rights of the LGBT groups can be protected on the ground of humanitarian perspective, why the freedom of religion cannot be protected as of the rights of the human being to perform their religion without any discrimination? Therefore, major concentration shall be given for the protection of human rights and the protection of equality.

### **3.3. DISCRIMINATION AGAINST WOMEN**

It is not always true that women always face discrimination rather they are at times in an advantageous position than that of man. For example in the work field some jobs are particularly offered for the women and in this regard clients particularly expect their services from the women. However, discrimination might occur in this aspect for being discriminated by multiple factors; for example race, age, ethnicity, color, and sexual orientation. In this regard the reservation of quota in the name of positive or preferential discrimination plays a significant role for the protection of the rights of the disadvantaged section of the society, who are in the back foot for a long period of the time because of discrimination on the ground of ethnicity, age, gender and some specific categories. This method plays a vital role for the assurance of equality for them in the society. This method is debated on the ground that it is contrary to equal treatment but it is necessary for the principle of equality of gender. It is also debated on the ground that, by the preferential discrimination one may choose the less qualified candidate than the qualified candidate. However, the reservation of quota might not always fulfill the expected desire or purpose of the reservation as there might be a lot of candidates who might not enjoy or get the opportunity of the reservation of quota because of their less qualification.

### **4. RIGHTS OF LGBT GROUPS**

In Human Rights Law discrimination on the grounds of race, sex sexual orientation is not permitted. As such, it is quite absurd to say something about, human rights of man, human rights of women, human rights of gay and lesbian as all are human being. Many countries around the world recognize homosexuality, gay and lesbian marriage, transsexual partnership through enacting laws, adopting rules and regulations particularly for the protection of their rights. However, homosexual behavior has been regarded as illegal in seventy six countries where seven of them made it punishable by execution put the LGBT (Lesbian, Gay, Bisexual, and Transsexual) rights advocates to a grave concern in 2011. In spite of this, because of the increasing number of occurrences all Europe, the decisions of the European Court of Human Rights show the acceptance of the same-sex, different-sex, surrogacy, married, registered and co-habiting partners. The view of the court in this regard is that, the right to respect private life is conjoined with the rights to develop and maintain relationship with another by their own freedom and choice. Moreover, the right rights of the transsexual parents are also protected by the European Court of Human Rights. However Marjolein argued that, the rights of transsexual women who fathered a child is not equally protected like that of the heterosexual partners and he suggested for a change in the legislation for the protection of the rights of the transsexual parents.

### **5. SEXUAL RIGHT OF WOMEN**

Human rights of women includes sexual rights and reproduction rights, which are based on the right to healthcare, right to education, right to get equal treatment and non discrimination. As per these rights women are free to choose their sexual partners and to have the desired number of children as well as the spacing between the children. Reproduction rights may include the right to legal abortion, right to control the reproduction function, right to choose reproduction out of any violence, coercion or undue influence. Sexual rights and

reproduction rights of women is given an international framework for the first time in 1994 at the program of action of the International Conference on Population and Development. Apart from these rights, women's right to land, property and housing plays an important role for the protection of women's equality and well being. Protection of the women's right to shelter is vital as without the protection of which they might be dependent upon others and being homeless they might be subject to sexual violence and other discrimination. Apart from this if their right to property, land and housing is assured they might not be subject to force eviction, harassment and discrimination. In addition to that, the right to get healthy water, food and sanitation is necessary for both man and woman. Both of them in the developing countries suffer from mal-nutrition and other diseases because of their poor food, water and sanitation facilities. Rather than man, women need to get more healthy food and water during their reproduction period. Moreover, more safety is to be assured for women for the use of sanitation.

## **6. WOMEN'S RIGHT TO WORK**

Women have the right to decent work and the social security like that of the men. In developing countries women at times cannot enjoy the right to work because of the socio-economic perspective of these countries. Moreover, social security for the women is not assured to the expected level as in most of the developing countries women are usually subject to rape and sexual violence. Moreover, violence against women, which includes physical, mental and sexual violence, shall be removed for the assurance of equality of rights and universality of the human rights of women at large.

## **7. WOMEN IN CURRENT WORLD**

In respect of political rights women are not generally discriminated in the present world. Historically women were discriminated on the ground of public functions, political life and political decision making process. Women's participation in the political field is largely seen from the nineteenth and twentieth centuries. Women's right to vote, though not secured in the ancient time, has been almost secured all over the world. In 2013, about in 187 countries women play a role as a parliamentarian. Apart from this, in some countries like Germany and Bangladesh, women play the major governmental role as the head of the government.

## **8. CONCLUSION**

In conclusion it can be said that, as a human being both man and women are subject to the enjoyment of certain rights particularly the fundamental human rights like right to get health food, water and sanitation, right to get proper education, healthcare and decent works as well as the right to property, housing, shelter and freedom to perform their religion. In this regard the distinction between the rights of man and women makes very little sense. However, being the vulnerable sects of the society some specific rights of women like freedom from torture, violence, trafficking and inhuman behavior shall be protected for ensuring equality and universality of the human rights.

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