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Paper on Human Rights in Relation to (Gender InequalityIts Problems and Solutions in 21st Century)

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Abstract:

“In the nineteenth century, the central moral challenge was slavery. In the twentieth century, it was the battle against totalitarianism. We believe that in this century the paramount moral challenge will be the struggle for gender equality around the world.”¹

— Nicholas D. Kristof, *Half the Sky: Turning Oppression into Opportunity for Women Worldwide*

Human rights are rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible.

Every year the Human Rights Council sets aside a day to discuss the human rights of women and gender inequality. The focus this year was on women’s equality before the law and the concrete steps that need to be taken to move forward¹, but still problem remains the same problems like exploitation of women at work place, problem related to health, no equal pay for men and women and the story goes on and on thus, females are still dominated by the ruling parties.

In recognition of the fact that equal rights for men and women, and the elimination of all forms of discrimination against women are key human rights issues, this submission lays out a few key concepts how the problem arose and how to uproot this problem.

1. Introduction

1.1. What are Human Rights?

Human rights are rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, color, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible.

1.2. What is Gender Inequality?

Gender inequality refers to unequal treatment or perceptions of individuals based on their gender. It arises from differences in socially constructed gender roles as well as biologically through chromosomes, brain structure, and hormonal differences.¹

The twentieth century saw more advances in women’s rights and gender inequality than at any other time in history. Women in many countries gained the right to vote, the right to own property, the introduction of birth control, and equal employment rights. But despite much-needed legislation to empower women in nations like the United States and United Kingdom, gender discrimination still presents a significant problem for women across the world and in India in the twenty-first century.

Women continue to face discrimination in their everyday lives with rape and violence and pay inequities in the workplace. They are also still more likely to suffer from poverty, despite the fact that more women are working than ever before.²

We have witnessed an extraordinary proliferation of human rights law in the course of the 20th Century and the beginning of this millennium. Contrary to popular belief, business is booming at the United Nations, with its entourage of resolutions, declarations and conventions that now deal with a broad range of abuses across the globe including racial discrimination, women’s rights to equality, the rights of children, and the rights of indigenous groups, all aided and abetted by nongovernmental organizations, including faith-based groups, women’s groups and other social justice initiatives. There is an utmost need to deal with these ‘problems’ seriously and handling them with great speed and efficacy.

Gender is defined as distinct from sex in that it refers to the social and cultural constructs which, while based on the biological sex of a person, defines his or her roles in society³; thus gender-based violence is taken to mean the violence which is inflicted on a

¹ Wood, Julia. *Gendered Lives*. 6th. Belmont, CA: Wadsworth/Thomson Learning, 2005.

² Human rights in India by Chiranjivi J.Nirma I, Oxford India paperbacks.

³ For full discussion of this distinction, please refer to Mosse, Julia Cleves (1993) *Half the World, Half a Chance*. Oxfam: Oxford.

person because of their biological sex. In a parallel sense, a society in which there was no discrimination against anyone based on his or her sex could be said to have achieved gender equality, and more generally, gender equality could be defined as full equality between the sexes. A more rights-based definition of gender equality can be developed with reference to two of the fundamental international instruments in this regard: The Universal Declaration of Human Rights⁴ declares that all humans are born free and equal, and the Convention on the Elimination of All Forms of Discrimination against Women⁵ refers to this declaration in its second paragraph, while repeating the terms “equal rights of men and women” and “equality of rights of men and women” at least four times in the first five paragraphs, reaching the “full equality of men and women” in the final opening paragraphs before Article 1. CEDAW goes on to enumerate the “same rights” and the “same opportunities” which must be available to all men and women in various fields of human activity, including but not limited to education, marital legislation, and labor. Thus, the concept of gender equality may be taken to primarily refer to the full equality of men and women to enjoy the complete range of political, economic, civil, social and cultural rights, with no one being denied access to these rights, or deprived of them, because of their sex.

However, to achieve such full equality in a meaningful and real sense, equality under the law is simply not sufficient, though vitally necessary. The historically inferior position of women, the all-too-often unfavorable cultural and traditional context and the social roles must be taken into account: “Formal or de jure equality, which involves simply “adding women” to the existing parameters is an inadequate response to women’s inequality. Realizing women’s substantive or de facto equality involves addressing the institutionalized nature of women’s disadvantage and changing the cultural, traditional and religious beliefs that typecast women as inferior to men. It also means recognizing that notions of masculinity and femininity are interdependent...”⁶

The reality of gender equality is complex and diverse, even more so in India. What is theoretically simple, that men and women have the same rights and opportunities in every walk of life, is more difficult to implement and measure. An increasing number of companies recognize that a healthier gender mix makes for good business, helping talent retention and enhanced innovation. What must also be recognized is the revolution in the smaller towns and villages that is even more important, as it will impact a larger number of women. Once a woman steps out to earn her livelihood, she becomes independent, not just economically but psychologically. She gains better control over the family’s finances and acquires stronger decision-making powers. With a rise in the number of schools and vocational training centers, women everywhere now have the opportunity to gain knowledge and acquire skills. As a result, we see women from smaller regions in India becoming engineers, doctors and even astronauts, which were unimaginable a few decades ago.⁷

The so-called gender gap in pay is one of the most contentious areas of prejudice against working women. The Organization for Economic Cooperation and Development (OECD) annually measures pay differentials between men and women across the world. The differences found in reports between the salaries of men and women continue to identify both direct and indirect gender discrimination.

Example of prevalent gender discrimination in the twenty-first century and Victims of human rights violation and necessary steps taken by government to curb it:

2. Women

In reality, however, fixed ideas on gender roles such as that the man should work outside and the woman should remain at home are deeply-rooted in society even today and cause various kinds of gender discrimination in homes and at workplaces. In addition, violence against women, such as abuse by a husband or partner, sexual harassment in the workplace and sex crimes, is one of the most important problems concerning women’s rights. Despite the fact that more women than ever occupy top corporate positions, their presence is not reflected in membership on company boards. While it is arguable that women’s rights in the west have improved immeasurably over the last century, the fight for those in less progressive nations goes on. Religious and cultural pressures coupled with unjust laws often oppress women as second-class citizens. In these nations, basic human rights and freedoms that are enjoyed by men are inaccessible to women.

Education is considered the key to self-improvement and financial independence. And it is this vital element for survival and success in the modern world that is denied to many women in the Middle East, parts of the Far East, and Africa. In these places, women are forced to remain subservient in the home and in society at-large.

Sexual, physical, and mental violence against women all remain too common. However, this is not just a problem in unprogressive nations. Incidences of rape and sexual assault continue to rise everywhere while prosecutions remain low. Societal attitudes towards these offences are continually prejudiced against the victim. It is clear that the need to combat gender discrimination continues into the modern age. Women are often still the subject of bigotry and hate simply because of their gender.⁸

With regard to these women’s human rights issues, the Gender Equality Plan was formulated in December 2000 and the Council for Gender Equality and the Gender Equality Bureau were established in the Cabinet Office in January 2001. Other measures have also been taken such as the Law for the Prevention of Spousal Abuse and the Protection of Victims enforced in October 2001

⁴ Universal Declaration of Human Rights, *UN, 1949*

⁵ Convention on Elimination of All Forms of Discrimination against Women, *UN, 1979*.

⁶ Jain, D., & *United Nations*. (2005). Women, development, and the UN : A sixty-year quest for equality and justice. Bloomington: Indiana University Press. p. 88

⁷ *Human Rights an interdisciplinary approach*, by Michael Freeman; 2nd ed.

⁸ *Human rights in India* by Chiranjivi J.Nirma I, Oxford India paperbacks.

3. Children

Regarding the rights of children, the Convention on the Rights of the Child was adopted at the 1989 United Nations General Assembly for the purpose of respecting children's rights and freedom and promoting child protection and assistance. Convention in April 1994 and is assertively making efforts to solve children's rights problems like:

- **Bullying** -children's bullying today is becoming more and more serious. The methods have tended to become more extreme and persistent and insidious bullying is on the increase. Bullying may cause suicides or result in severe injuries or death and it is necessary to recognize bullying as a serious human rights infringement.
- **Corporal Punishment**- by teachers is clearly prohibited in Article 11 of the School Education Law, but there still are many human rights infringements using corporal punishment.
- **Problems of Child Abuse, Child Prostitution, and Child Pornography**-incidents are taking place where parents or other adults abuse or severely scold infants or children and in some cases cause death. In addition, commercialized sexual exploitation of children such as child prostitution or children's sexual abuse inside and outside of Japan and the flood of child pornography on the Internet have become serious problems worldwide.

To solve these problems, strict efforts have been made such as establishment of the Law for Punishing Acts Related to Child Prostitution and Child Pornography, and for Protecting Children, enforced on November 1, 1999 and the Child Abuse Prevention Law, enforced on November 20, 2000. Children's rights problems such as bullying, corporal punishment by teachers, abuse by parents, have become grave social problems. The Ministry of Justice established in 1994 the Volunteers for Children's Rights Protection who exclusively deal with problems affecting children's rights. The volunteers are selected from among the human rights volunteers appointed by the Minister of Justice, and, by sending out various questionnaires and establishing the "Children's Rights Hotline", they strive to collect information on children's rights in addition to promoting cooperation in order to solve the problems.⁹

4. Elderly Persons

5. Persons with Disabilities

Under the present circumstances, however, cases where people in wheelchairs are denied access to shops or not allowed to rent an apartment happen, and thus the understanding of the people and consideration for persons with disabilities are insufficient. As a result, people with disabilities cannot be independent and are prevented from participating in society, and in this respect a society enabling coexistence has not been fully realized

6. HIV Carriers, Hansen's Disease Patients

Regarding Hansen's disease, it is not a genetic disease. Although it is contagious, there is a low risk of contagion from its bacteria, and it is rare to contract the disease even if the bacteria is acquired. In the event of contracting the disease, there will be no after-effects as long as treatment is taken early on.

7. Persons Released From Prison after Serving Their Sentence

Prejudice and discrimination toward persons released from prison after serving their sentences and their families are deeply rooted and they face discrimination in employment or difficulties in finding residences, and therefore conditions are quite severe for those people who try to reintegrate into society.

8. Crime Victims

Public concern for the human rights of crime victims and their families has increased. It has been pointed out that the crime victims have not only been damaged psychologically and economically by the crime itself and its after effects but have also suffered other injuries such as defamation through rumors and mindless slander or disturbance of the peace of private life. The State has established a system considering the feelings of crime victims from the viewpoint of criminal justice and is promoting measures to provide assistance. In addition, the human rights organs of the Ministry of Justice are conducting human rights promotion activities to consider and protect the rights of crime victims.

9. Homeless

There are many people who have become homeless for unavoidable reasons in spite of a desire to remain independent and they cannot lead healthy and social lives, and many human rights infringements against homeless people are taking place such as harassment and violence. Therefore, the Law on Special Measures to Support the Independence of the Homeless was formulated in July 2002 and, based on the law, the Basic Policies Concerning Support for the Independence of the Homeless were formulated in July 2003.

10. Persons with Gender Identity Disorders

Gender identity disorder means a state where a person's biological sex (the sex of the body) and the self-aware sex (the sex of the conscious) are not one and the same and this may interfere with the person's social life. Persons with gender identity disorders have been subjected to prejudice in society and have been discriminated against in various areas such as promotions in their workplaces.

⁹ Economic and Political Weekly February 1, 2003. <http://www.jstor.org>

The Law for Special Measures for the Treatment of Gender for People with Gender Identity Disorders was promulgated in July 2003 and was enforced in July 2004. Through this law, a person with a gender identity disorder who satisfies certain conditions is able to get a legal decision on a change in his or her officially recognized gender.

11. Problem with Human Rights

The rights watch body said successive governments have yet to enact adequate laws or implement policies to protect marginalized communities, particularly Dalits, tribal groups, religious minorities, women, and children. The government routinely “fails to take action” in cases of serious human rights violations, particularly all forms of sexual assault against women, communal violence, enforced disappearances in conflict areas, extrajudicial killings, torture, and increasing attacks on human rights defenders. These issues are compounded by the widespread impunity for abuses and the corresponding problems of access to justice and adequate compensation.¹⁰

12. Conclusion

“India’s growing regional and global influence should be matched by an increasing commitment to protect human rights abroad,” Leicht said¹¹

A gender perspective is not only about women. Adopting a ‘gender perspective’ or ‘integrating gender’ into work on business and human rights means that any analysis looks at the way in which a business entity may have a differential, disproportionate or unforeseen impact on women or men, boys or girls, as a result of their different social, cultural or legal roles, rights and responsibilities.

Achieving and preserving human rights is a vital movement that has started in second half of this century and should be continued despite opposition by self serving individuals and government thou , lot of conventions , acts and laws have been formulated and are working to curb this monster of gender inequality with reference to human rights, and we know that from last hundred years only western civilization have solutions to all problems and no other civilization matters¹² but we as a whole unit can bring out this change and can make our country a better place to live in and to take our country to greater heights of success and glory.

13. References

1. Wood, Julia. Gendered Lives. 6th. Belmont, CA: Wadsworth/Thomson Learning, 2005.
2. Human rights in India by Chiranjivi J.Nirma l, Oxford India paperbacks.
3. For full discussion of this distinction, please refer to Mosse, Julia Cleves (1993) Half the World, Half a Chance. Oxfam: Oxford.
4. Universal Declaration of Human Rights, UN, 1949
5. Convention on Elimination of All Forms of Discrimination against Women,UN, 1979.
6. Jain, D., & United Nations. (2005). Women, development, and the UN : A sixty-year quest for equality and justice. Bloomington: Indiana University Press. p. 88
7. Human Rights an interdisciplinary approach ,by Michael Freeman; 2nd ed.
8. Human rights in India by Chiranjivi J.Nirma l, Oxford India paperbacks.
9. Economic and Political Weekly February 1, 2003. <http://www.jstor.org>
10. Human Rights website
11. Human Rights website (last visited 28th June,13)
12. Human rights in India by Chiranjivi J.Nirmal, pg:38Oxford India paperbacks

¹⁰ Human Rights website

¹¹ Human Rights website (last visited 28th June,13)

¹² Human rights in India by Chiranjivi J.Nirmal , pg:38Oxford India paperbacks.