# HUMAN RIGHTS AND DISADVANTAGED GROUPS

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# Abstract

*यत्र नार्यस्तु पूज्यन्ते रमन्ते तत्र देवताः ।*

*यत्रैतास्तु न पूज्यन्ते सर्वास्तत्राफलाः क्रियाः ॥*

*The divine are extremely happy where women are respected ;where they are not, all actions (projects) are fruitless.*

*Men need to consider women as partners in progress. In a traditional society like India, where many women goddess are worshipped with lot of devotion and respect, when it comes to equal treatment of their biological partners, both men and society keep them in low profile. Many a times they are considered as servants of the home, and are looked at as sexual objects. Their economic capacity is deprived to make them dependent on the male dominated society. The traditional, economic, social and cultural disbeliefs and age old customary practices of intimidating cruel practices that are prevalent in many parts of the world has to be halted with welcome sign of considering them as partners in progress. Love, affection, care with utmost respect for the augmentation of their rights alone would result in uplifting their rights and strengthen the international and national efforts in realizing their rights as human beings.*

# Introduction

The expression ‘Human Rights’ is of recent origin. It denotes all those rights , which are inherent in human beings irrespective of caste, creed , religion, sex and nationality. Every individual (human being) is entitled to some basic rights ,without which we cannot lives as human beings[[1]](#footnote-2). It is very difficult to give a precise meaning of the term human rights. All these rights, which are essential for the maintenance of human dignity, may be called as human rights. These are the rights , which no one can be deprived without a grave affront to justice. Human rights are the natural rights of the human race without which we cannot live as a human beings. Therefore, Human Rights sometimes are also called as natural rights or basic rights or fundamental rights.[[2]](#footnote-3)

Human rights are essentially individual in character. They are not created by any legislature through legislation and are not subject to amendment. Civilised states and a body like United Nations. The members of United Nations have committed to promote and protect observance of Human rights.

It is very difficult to define human rights. H owever, attempts made by some authorities are stated hereunder –

Louis Henkin[[3]](#footnote-4) in his “*The Age of Rights*” defines “*Human Rights are the rights of individual in society.*”

Section 2(1)(d)[[4]](#footnote-5) defines Human rights as the rights relating to Life Liberty equality and dignity of the individual guaranteed by the Constitution or embodied in the International Conventions and enforceable by Courts in India.

The concept of vulnerable and disadvantaged groups is as old as human history. From ancient to modern times in every society, number of instances could be found where in a section of people in each society are given a different kind of treatment

Vulnerable groups are those groups of people who may find it difficult to lead a comfortable life, and lack developmental opportunities due to their disadvantageous positions. Further, due to adverse socio-economical, cultural, and other practices present in each society, they find it difficult many a times to exercise their human rights fully.

In the language of human rights vulnerable groups may be defined as, certain groups of population who often encounter discriminatory treatment, or need some kind of special attention for protection of the State to avoid exploitation or from a harmful environment.

People who are discriminated based on sex, race, by birth in a particular community, religious or disability or any other criteria that is specific to each society may generally described as disadvantaged people.

According to European Foundation for the improvement of living Working Conditions, vulnerable people means :

“Groups that experience a higher risk of poverty and social exclusion than the general population, ethnic minorities, migrants, disabled people, the homeless, those struggling with substance abuse, isolated elderly people and children all often face difficulties that can lead to further social exclusion, such as low levels of education and unemployment or underemployment, refugees, stateless persons, victims of war are described as vulnerable groups"[[5]](#footnote-6)

Women and girls are normally in a disadvantageous position all over the World. However, compared to developed countries, they are in a more disadvantageous position in developing countries due to abject poverty, other social, cultural, and derogatory customary practices adopted in each country.[[6]](#footnote-7)

Women face double discrimination and violence being members of specific caste, class or ethnic group. Maternal mortality is very high in India. The average maternal mortality ratio at the national level is 540 deaths per 100,000 live births.[[7]](#footnote-8)

## Awareness Programs / Conventions

### National Policy of Women[[8]](#footnote-9)

The Government of India in the year 2001 adopted a National Policy of Women for advancement, development and empowerment of women. The Ministry of Women and child development takes care of various aspects of women’s development and empowerment. The aims and objectives of the policy are looked after by the Ministry to achieve self sufficiency of Indian women. The aims and objectives of the policy are:

(i) Creating an environment through positive economic and social policies for full development of women to enable them to realize their full potential.

(ii) The de-jure and de-facto enjoyment of all human rights and fundamental freedom by women on equal basis with men in all spheres – political, economic, social, cultural and civil.

(iii) Equal access to participation and decision making of women in social, political, and economic life of the nation.

(iv) Equal access to women to healthcare, quality, education at all levels, career and vocational guidance, employment, equal remuneration, occupational health and safety, social security and public office etc.

(v) Strengthening legal systems aimed at elimination of all forms of discrimination against women.

(vi) Changing societal attitudes and community practices by active participation and involvement of both men and women.

(vii) Mainstreaming a gender perspective in the development process.

(viii) Elimination of discrimination and all forms of violence against women and the girl child; and

(ix) Building and strengthening partnerships with civil society, particularly women’s organizations.

Apart from National Policies and other initiatives, the Government of India and the State Governments has evolved a number of policy formulations, schemes through annual budgets for the promotion of women’s rights.[[9]](#footnote-10)

*CEDAW[[10]](#footnote-11)*

This convention became a milestone in the development of women’s rights and addressed to eliminate all kinds of discrimination. The convention has come into force in 1981 and 187 states have ratified the convention and became parties. Among the few who have not become parties to it are Iran, Palau, Somalia, Sudan, South Sudan, Tonga, and United States of America. USAand Palau have signed but not ratified the convention.

The convention has a preamble and 30 articles. It defines acts that constitute as discrimination and specifies the strategies to the national governments to adopt policies to eliminate such discrimination against women.

According to the Convention, discrimination against women as "...any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field." (Article 1)[[11]](#footnote-12)

By accepting the Convention, States commit themselves to undertake a series of measures to end discrimination against women in all forms, including: (Article 2)[[12]](#footnote-13)

It sets out equal rights for women, regardless of their marital status, in all fields - political, economic, social, cultural and civil - and calls for national legislation banning discrimination. (Article 3)[[13]](#footnote-14)

These principles have been further enunciated in detail in the Convention. The convention for the first time guaranteed the health rights of women, including that of reporductive health and choice.

As per the provisions of the Convention, each country need to submit independent reports to the committees appointed by the UN at periodical intervals on the steps taken by them in the promotion of women’s rights. In this context, it is to be noted that the effectiveness of the Convention in promoting the rights of women is significantly undermined by the states by making reservations to several provisions of the convention.

*GOVERNMENT WELFARE PROGRAMMES AND SCHEMES FOR VULNERABLE PEOPLE (WOMEN[[14]](#footnote-15))*

1. *Indira Gandhi Matritva Sahyog Yojana (IGMSY)*

In October 2010, This scheme was introduced by central Government of India in the ministry of Women and Child Development.It is implementing a Conditional Maternity Benefit for pregnant women to enhance their health and nutrition status to better enabling environment by providing cash incentives to pregnant and nursing mothers.

2. *Ujjawala*

The main motive of Ujjawala is to prevent trafficking of women and children for commercial sexual exploitation through involvement of local communities and social mobilization and awareness generation programmes. It also generates public discourse through seminars / workshops and such events and any other contemporary activity.

3. *National Commission for Women*

The National Commission for Women was set up as a statutory body in 1992 to safeguard the rights and legal entitlements of women, review the constitutional and legal safeguards for women and recommend remedial legislative measures. It advises the Government on all policy matters affecting women.

## Legal Aspects

*CONSTITUTIONAL PROVISIONS AND LEGISLATIONS RELATING TO VULNERABLE PEOPLE (WOMEN[[15]](#footnote-16)):*

Art. 15(3)[[16]](#footnote-17): State can make special provisions for women and children.

Art. 39[[17]](#footnote-18): Ensures equal pay to women for equal work.

Art. 40[[18]](#footnote-19): Provides 1/3 reservation in panchayat to women.

Art. 42[[19]](#footnote-20): Provision for just and humane conditions of work and maternity relief.[[20]](#footnote-21)

Legislations enacted for Women:[[21]](#footnote-22)

1. Child Marriage Restraint Act 1929 as amended in 1956 prohibits any marriage of a girl below the age of 18 years. In case if marriage is performed below the age 18, constitutes as a crime where in the elders and the husband together are punishable. This Act increased the age limit of a female from 15 to 18 years and that of a male from 18 to 21 years.

2. The Hindu Marriage Act, 1955 as amended in 1976 provides equal right of inheritance of property for women as a coparcener in the joint property of a family. This Act further provides the rights to a girl to repudiate any child marriage performed before attaining majority.

3. Maternity Benefit Act, 1961.

4. The Dowry Prohibition Act, 1961 that prohibits demand of dowry by the in laws in any form linked with the marriage of women, and if proved it constitutes as a crime under the eye of law.

5. Immoral Traffic (Prevention) Act 1956 (which repealed the Suppression of Immoral Traffic Act of 1956), prohibits of selling, soliciting women or girls for any immoral purpose including keeping them as brothels. The aim of the Act is to prohibit sexual exploitation of person, which includes men and children. It decriminalizes prostitution.

6. Indecent Representation of Women (Prohibition) Act 1986 This act punishes the exploitation of women or depiction of women in any indecent manner that affects the dignity of women. It makes such acts as a criminal offence.

7. Commission of Sati (prevention) Act 1987 This act prohibits any kind of act forcing a woman to immolate along with the dead body of the husband. This is again a criminal offence where in the punishment may be awarded up to life imprisonment.

8. National Commission of Women Act 1990 This Act was enacted to establish a National Commission of women to monitor and to help women related issues, especially to review the Constitutional and Legal safeguards for women; to recommend remedial legislative measures ; to facilitate redressal of grievances and to advise the Government on all policy matters affecting women.

9. Prenatal Diagnostic Technique (Regulation and Prevention of Misuse ) Act, 1994 This Act prohibits scanning of a foetus and performing illegal abortions to kill a female foetus.

10. Protection of Women from Domestic Violence Act, 2005. This Act was amended to discharge the international commitments of the Government of India to the CEDAW Convention. According to this Act, any type of intimidation of women or harassment by family or otherwise, which constitutes a violation to the dignity of women, is punishable and is a criminal offence.

11. The Sexual Harassment of Women at Workplace Act, 2013[[22]](#footnote-23)

*DE-FACTO AND DE-JURE*

De facto is Latin for "of fact," meaning "in reality. It recoganization is provisional and can be withdrawn.

Article 4[[23]](#footnote-24) directs the state parties to protect women from de facto equality between men and women.

De jure which means "of law," or "officially.“ It reorganization is permanent and legally binding.

Article 2[[24]](#footnote-25) imposes obligation on state parties to undertake necessary steps appropriate means to eliminate discrimination against women.

The difference between de facto and de jure recognition is chiefly political rather than legal. The conditions under international law for the recognition of a new regime as the de facto Government of a State are that new regime has in fact effective control over most of the State’s territory and that this control seems likely to continue.

The conditions for the recognition of a new regime as the de jure Government of a State are that the new regime should not merely have effective control over most of the State’s territory, but that it should, in fact, be firmly established.

The effectiveness of a Government is, of course, a sine qua non of recognition of an entity as the government of a state; recognition of an entity before it has become effective is “premature” and intervention in a State’s affairs contrary to international law.

However, Prof. Kelsen opines: “*From the juristic point of view, the distinction between de jure and de facto recognition is of no importance. Any codification of International law relating to recognition can ignore it.”*

# Conclusion

*“It is impossible to think about the welfare of the world unless the condition of women is improved. It is impossible for a bird to fly on only one wing.”*

*— Swami Vivekananda*

In primitive societies particularly on the joint family system, women was treated as a tool in the kitchen and toy in the hands of her husband and collaterals. But now the status of the women has been uplifted through variety of legislation conferring various rights, privileges of women and awareness among the people.

We have suffices laws to maintain the equality not only between men and women but also between the women and women but the main issue is the applicability (De-facto) of that laws.

Also there should be more awareness among the people towards the women rights and safety.

*As Hellen Keller said that “Alone we can do so little, together we can do so much”*

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6. Sastry Dr. T.S.N., Human Rights of Vulnerable and Disadvantaged Groups, 1st Edition (2012) [↑](#footnote-ref-7)
7. National Family Health Survey-2, 2000 [↑](#footnote-ref-8)
8. http://wcd.nic.in/womendevelopment/national-policy-women-empowerment [↑](#footnote-ref-9)
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14. Dr. B.K. Teja, ”Schemes and Programmes of Government of India on Human Rights Related

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21. [↑](#footnote-ref-22)
22. *Vishaka & Ors* vs *State Of Rajasthan & Ors on ,* AIR  *1997* [↑](#footnote-ref-23)
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