



## INTERSECTIONALITY AND THE STRUGGLE FOR HUMAN RIGHTS IN INDIA

---

Swapna Rani Barman Deka

Assistant Professor, Deptt of Political Science

Manikpur Anchalik College, Bongaigaon

---

### ABSTRACT

*In its investigation of complicated abuses of human rights, the United Nations Human Rights System has become more open to the concept of intersectionality. Following a discussion of the fundamental framework of each system as well as the key human rights treaties, this part takes a cursory look at the ways in which the wording of the treaties itself incorporates or does not embrace intersectional ideas. The evaluates what is known as the "soft law" connected to intersectionality within each regional system. This refers to the non-binding laws or policies that are expressed in regional recommendations, guidelines, or initiatives. Despite the fact that it is difficult to discuss the regional human rights jurisprudence in its entirety due to the breadth of the topic, each section provides an overview of the regional system's approach to intersectionality in its non-discrimination jurisprudence. In conclusion, each section presents an example of intersecting discrimination as well as a more extensive account of the approach that the various legal authorities have taken toward intersectionality.*

**Keywords:** Domestic-Violence, Human-Trafficking, Social Work

### INTRODUCTION

A "single-axis" method has generally been used by international human rights monitoring agencies in order to carry out their mission of enforcing legislative prohibitions that prohibit discrimination. In human rights instruments such as the Universal Declaration of Human Rights, which forbids distinctions based on "race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status," the focus of these bodies has been on discrete, mutually exclusive grounds of discrimination. These grounds are recognized as being grounds for discrimination in human rights instruments. This singular conception of discrimination has been tended to be reinforced by the remedies provided by international human rights mechanisms in individual cases, as well as their policy recommendations. This, in turn, entrenches normative and institutional fragmentation as well as discursive hierarchies through which experiences of discrimination will be identified and redressed through international human rights law.<sup>5</sup> This article applies an analysis that is based on chosen approaches to intersectional discrimination as an action-oriented way to analyze the condition of current practice within international human rights institutions. Specifically, the paper focuses on the intersection of race, gender, and sexual orientation.

The jurisprudence of the Committee on the Elimination of Discrimination against Women (also known as the CEDAW Committee) is the primary topic of this article. Additionally, numerous recent interpretative remarks and cases brought up by other human rights treaty monitoring agencies are discussed. The conversation begins with an overview of several theories of intersectional discrimination, and it continues by examining the benefits and drawbacks of intersectionality as an observational and reform-driven methodology for analyzing and

implementing guarantees of substantive equality through international human rights law. The discussion begins with an overview of several theories of intersectional discrimination. In the sections that follow, this article applies intersectional methodologies to the practice of the Committee on the Elimination of Discrimination Against Women (CEDAW Committee), the Committee on the Elimination of Racial Discrimination (CERD Committee), the Committee on the Rights of the Child (CRC Committee), the Committee on Economic, Social, and Cultural Rights (CESCR Committee), and the Committee on the Rights of Persons with Disabilities (CRPD Committee).

The term "human rights" refers to the fundamental liberties and rights that are inalienable to every individual human being. They acknowledge and defend the inherent dignity of every individual on the planet, from the moment of birth to the moment of death. The Universal Declaration of Human Rights is where these rights are spelled out in full. Some examples are the right to freely express oneself and the right to practice one's faith without interference.

The denial of one or more of these fundamental liberties and rights is considered a violation of human rights. It is considered a violation of human rights when they are either ignored completely or not protected at all. In every region of the globe, there are instances of people breaking the law. For instance, some politicians are preventing fair elections from taking place, which means that citizens in a nation may only vote for one candidate. Abuse of human rights is not the same thing as a violation of human rights from a legal standpoint, since different types of persons are responsible for each. The state may be directly responsible for violations, or it may be indirectly responsible when a violation occurs as a consequence of the state's failure to take action to avoid it. Non-state actors, such as rebel organizations and individuals, are the ones who are responsible for violating human rights.

These are those who work to advance or defend human rights via their actions. These individuals, who are often referred to as human rights activists, have the goal of making the world a better and more equitable place via the peaceful protection of our shared rights. Human rights defenders engage in a variety of activities, some of which include bringing attention to violations of human rights via the media or holding protests in a nonviolent manner in order to persuade those in influential positions. However, safeguarding human rights may be accomplished in more than one manner. People come from different walks of life and participate in a wide variety of activities when they identify as activists.

### **Intersectionality**

It is vital to understand gender in the context of power relations because, according to the intersectionality view, an individual's social identity exerts special impacts on the individual's beliefs and experiences of gender. This is the case because the intersectionality perspective emphasizes that an individual's social identity exerts distinctive influences. describes intersectionality as "the mutually constitute relations among social identities," and that this concept has been fundamental to modern research on gender and feminist thought. repeats this sentiment and goes on to assert that the concept of intersectionality is one of the most significant contributions that feminist theory has made to the modern understanding of gender. It shall be proven that this statement, "an individual's social identities profoundly influence one's beliefs about and experience of gender," is especially true in India. This will be shown in the next sentence. When we study the violence that women in India are subjected to, we can observe that the experiences of various women are often affected by other aspects of their identity such as race, caste, and class.

In feminist practices, anti-racist ideas, and even at the level of policy and campaigning, the intersection of race and sex has been acknowledged; yet, it is the framework of privileged groups that marginalizes those who are doubly burdened. A significant number of underrepresented communities have found that engaging in identity-based politics has provided them with a source of resilience, community, and intellectual growth. Nevertheless, the issue with identity politics is that it, in many instances, overlooks disparities that exist within the same group. Since Crenshaw first presented the idea of intersectionality, other people have thought about it and approached it from a variety of perspectives; therefore, this has given birth to a number of debates over the notion of intersectionality itself. Although many academics have regarded it to be a theory, others have seen it more as a heuristic method and a technique for feminist analysis. Because of this, concerns have been raised about whether intersectionality should only be used to understand individual experiences and theorize identities, or if it should also be treated as a feature of social structures and cultural discourses (Davis, 2008). This has given rise to debates surrounding whether intersectionality should only be used to understand individual experiences and theorize identities. Within the framework of intersectionality, British feminists have discussed the notion of "triple oppression," which asserts that black women are often subjected to a mixture of three distinct forms of oppression or discrimination. These feminists have framed their discussion within the framework of intersectionality.

They are oppressed due to the fact that they are of a certain race, are female, and are members of the working class. On the other hand, this idea has also been criticized by the individual who asserts that "any attempt to essentialize 'Blackness' or 'womanhood' or 'working classness' as specific forms of concrete oppression in additive ways inevitably conflates narratives of identity politics with descriptions of positionality as well as constructing identities within the terms of specific political projects." The experiences of women who belong to particular specific socioeconomic groups are further marginalized when tales like this are told about them. This may be damaging. It is becoming more difficult to have a conversation about gender in isolation from other social identities and power systems, which highlights the significance of the notion of intersectionality. This makes it impossible to disregard its significance. According to Knapp, this is one of the ways in which "the political and moral need for feminism to be inclusive in order to be able to keep up its own foundational premises opened up the avenues for dispersion and acceleration of race/ethnicity, class, gender/sexuality, etc." Knapp makes this point in relation to the feminist movement. It is important to consider an interconnection of multiple identities in order to fully understand the complex nature of reality. Intersectionality is a reflection of reality, and in reality there is no single social identity category that can describe how individuals respond to both their own social environment and how others respond to them in the same environment. In spite of the fact that intersectionality may be lacking in accuracy as a theory, the same imprecision that it has is precisely what makes it a dynamic and significant vehicle for critical feminist analysis.

## **OBJECTIVES**

1. The Study Intersectionality and The Struggle for Human Rights.
2. The Study They Are Recognized in Human Rights Instruments, Such as the Universal Declaration.

## **Intersectionality Theory and International Human Rights Law**

Intersectionality is both a method of observation and an action-oriented form of practice that aims to uncover and redress the workings of privilege and oppression that often remain hidden from view in the classical single-

axis analyses of discrimination and inequality used by most international human rights monitoring mechanisms. The goal of intersectionality is to uncover and redress the workings of privilege and oppression that often remain hidden from view in these traditional analyses of discrimination and inequality. The study of post-colonial studies and critical racial feminism have both contributed significantly to the development of intersectionality theories throughout the years. During this time period, a number of academics working within these various traditions developed models of intersectionality as a counterweight to the dominant essentialist conception of inequality. This conception of inequality put forward fixed, homogenous groups as categories within national and international anti-discrimination law and policies. Intersectionality was developed as a counterweight to this essentialist conception of inequality as a result of the intersection of multiple identities. The criticism that is known as intersectional and anti-essentialist contends that persons cannot be defined by a single trait that does not change over time, but rather that identities are continually being moulded and recreated as a consequence of the interaction of various traits and experiences. According to Virginia May, intersectionality "highlights how lived identities, structural systems, sites of marginalization, forms of power, and modes of resistance 'intersect' in dynamic and shifting ways." In order to refute the idea that discrete grounds of discrimination can be readily disentangled from one another in terms of both their cause and impact, intersectional theories depend on a matrix framework that acknowledges the intricately intertwined functions of identities and power. This is done by rejecting the concept that individual grounds of discrimination can be easily separated from one another.

Intersectional methods are not the same as cumulative or multiple conceptions of discrimination. Cumulative and multiple conceptions of discrimination add up a variety of grounds for discrimination, such as ethnic origin, gender, socioeconomic class, disability, and age, as separate, sequential, and separable identity variables. Intersectional approaches, on the other hand, focus on the intersections between these identity factors. Intersectional approaches recognize that the unique forms of discrimination that occur at the intersection between several systems of oppression should be observed using new analytical tools and remedied through specific measures that may go beyond those that are typically provided in cases of discrimination on the basis of a single ground. Intersectional approaches also recognize that the unique forms of discrimination that occur at the intersection between several systems of oppression should be observed using new analytical tools and remedied using specific measures. An intersectional analysis takes into account the distinctions that exist within a group in addition to the disparities that exist between groups. It also maintains that it is possible for people and groups to experience both oppression and privilege at the same time.

Donnelly's argument relies heavily on seminal international publications pertaining to human rights, such as the Universal Declaration of Human Rights, which bases its list of human rights on "the inherent dignity and...equal and inalienable rights of all members of the human family." Donnelly's argument is based on these texts. These fundamental international legal guarantees in turn directly inform the understanding of human rights articulated by the United Nations Office of the High Commissioner for Human Rights (OHCHR), which is drawn on by the United States Agency for International Development (USAID): "human rights are inherent to all human beings, regardless of...any other status...generally expressed as universal legal guarantees." These seemingly basic universal definitions, however, cloud many important conversations due to the assumption that they are.

The articulation of particular human rights guarantees is fraught with intellectual and political controversy, notwithstanding the prevalence of arguments to the universality, indivisibility, and inalienability of human rights. For instance, do human rights have the same bearing on organizations as they do on individual people?

These conflicts over definition have crucial repercussions not only for academics but also for on-the-ground grassroots efforts for human rights, a vital subject that we shall examine later on in this lesson. As a result, in order to achieve the goals of our primary research question, we conduct a review of the ways in which the academic literature on human rights dispute from below covers three major themes that have an impact on how we define the term "human rights": how the discourse on human rights has evolved over time, and how academics have sought to examine and quantify notions connected to human rights and disagreements over the preservation of rights; what kinds of rights fall under each of these categories; how human rights debates have been shaped by these debates.

### **Defining and Measuring Human Rights Outcomes**

The literature on human rights dispute from below often places the operationalization of effective advocacy into one of three categories that overlap with one another: principle, practice, or government results. The fundamental key to success is bringing about a shift in mentality and normalizing rights for previously marginalized populations. The capacity to freely and effectively exercise one's rights is important to the achievement of success in practice. The acknowledgement of enhanced rights achieved via legislative changes or opportunities is essential to the achievement of successful government objectives. believes that the many meanings of success have contributed to a greater understanding of human rights movements as well as impeded that understanding. They make it possible for there to be a continuum of success rather than a binary measure, which results in a universe of examples that are more rewarding and rich to investigate. On the other hand, due to the fact that "successful" strategies and tactics may be defined in a number of different ways, academic studies regularly contradict one another. The Dalit rights movement in India is a good example of how people may successfully fight for their rights and ultimately gain them. Dalit activists successfully carried out a campaign under the slogan "Dalit rights are human rights" by using effective methods of civic organizing and rhetorical framing.

The acknowledgement of Dalit rights by both domestic and international actors has been regarded as a success, despite the fact that the Dalit community continues to confront a number of difficulties, both practical and legal, to the preservation of their rights. Discussions of accomplishment in terms of "principles" typically serve as the conceptual foundation for human rights conversations and may lead to the acceptance of human rights frameworks. Other academics, on the other hand, have found fault with these criteria due to the fact that they do not include any quantitative research and are difficult to operationalize. The struggle of LGBTQ people to achieve marriage equality is illustrative of the distinction between good government achievements and the actual gaining of rights in reality. The process of securing the formal legal right to marriage equality has been the focus of a significant amount of academic interest and is of critical significance to the movement.

The issue of legal recognition has received a significant amount of attention, not only because of its significance to the movement, but also because of the capacity to quantify statistics related with the passing of legislation. On the other hand, Encarnacion demonstrates via an examination of the situation in Argentina that the legal recognition of LGBTQ rights does not automatically translate into the acceptance of such rights by society. He contends that legal rights are often "just a starting point," and that the campaign cannot be seen as a success until same-sex married couples are freely welcomed in public spaces. He believes that this will not happen until the movement reaches a tipping point. Different conceptions of what constitutes a successful endeavor might lead to research that asserts the same action can be seen as both a triumph and a catastrophe. You may argue

that the Landless Peasant Movement in Brazil is successful from a political standpoint, but that it is not successful in either practice or principle. The rights of the peasants to possess land were ultimately established.

However, in exchange for legal recognition, they were exiled from their original territory and denied the capacity to claim complete equality with elite Brazilians regarding other freedoms (such as freedom of religion or freedom of mind, for example). In addition to this theoretical emphasis on practice, principle, or governmental results, different methodological techniques also have a considerable impact on how academics perceive the success or failure of a battle. Quantitative studies, on the other hand, have a tendency to be more pessimistic while qualitative approaches, particularly case studies, have a tendency to be more hopeful on the prospect of success for human rights movements from below. Fariss believes that this trend is the consequence of the fact that associations identified in many quantitative research are difficult to explain beyond statistical correlation, owing to the ambiguity in the definitions of both "rights" and "success." In other words, this pattern is the product of the fact that relationships found in many quantitative studies are difficult to explain. The work done by Fariss is essential to gaining a comprehension of the quantitative human rights literature. According to Fariss, the measures of human rights abuse that are commonly used by quantitative researchers have skewed their results toward more gloomy conclusions. This is due to the fact that the measurements fail to account for the more stringent criteria of human rights reporting that have been implemented over time.

Latent variable analysis is a statistical method that aims to measure something that cannot be directly seen — in this example, a country's underlying respect for human rights — by aggregating various indicators that can be viewed directly. Fariss utilizes this method to try to address this issue. It is a technique that attempts to measure something that cannot be directly observed. He demonstrates, by using these strategies, that respect for human rights has, in fact, increased throughout the course of time. In the quantitative analysis of human rights fights, the implications of Fariss's work have been revolutionary, and they corroborate the more hopeful image that is often displayed in the qualitative literature. However, qualitative measures also have a more optimistic attitude since they tend to concentrate on the "good news" case studies. This is the reason why qualitative measurements have a more positive outlook. Caution should be used while conducting an investigation of the tactics utilized by different human rights organizations in Lebanon since case study research has the potential to present an unrealistically positive image of the achievements of human rights organizations. Successful movements often have a greater amount of material accessible, which makes them appealing subjects for qualitative research. However, the conclusions that may be drawn from these situations do not always apply more broadly.

### **Violation of Human Rights**

Slavery, forced labor, and the trafficking of humans are all examples of behaviors that violate human rights because they deprive human beings of the rights that are naturally theirs. In point of fact, the Universal Declaration of Human Rights makes a direct reference to slavery in its fourth article, which reads as follows: "No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all of their forms."

Slaves and traffickers in people breach human rights on a massive scale because they lay claim to the person they enslave, using them for their work and/or their humanity. The following are the human rights that are most pertinent to the issue of trafficking:

The prohibition of discrimination on the grounds of race, color, gender, sexual orientation, language, religion, political or other opinion, national or social origin, property, birth, or any other status.

- The right to life;
- The right to liberty and security;
- The right not to be subjected to torture and/or cruel, Inhuman, or degrading treatment or punishment;
- The right not to be subjected to slavery, Servitude, forced labor, or bonded labor;
- The right not to be subjected to torture and/or cruel, Inhuman, or degrading treatment or punishment;
- The right to be free from gendered violence;
- The right to freedom of association;
- The right to freedom of movement;

## CONCLUSION

India is home to a huge variety of people and cultures, and over the course of the last ten years, the country has seen a number of shifts in its social, political, and economic landscapes. Research conducted over the course of many years in India has conclusively shown that there is a population of individuals who exist at the intersection of gender and caste. The denial of one or more of these fundamental liberties and rights is considered a violation of human rights. It is considered a violation of human rights when they are either ignored completely or not protected at all. In every region of the globe, there are instances of people breaking the law. For instance, some politicians are preventing fair elections from taking place, which means that citizens in a nation may only vote for one candidate. Abuse of human rights is not the same thing as a violation of human rights from a legal standpoint, since different types of persons are responsible for each.

## REFERENCES

1. Anne, M., Callahan, J. L., & Kang, H. (2013). Gender and caste interscctionality in the Indian context. CEJSH: Human Resource Development, 6(95), 31–48.
2. Barn, R. (2013). Social Media and Protest - The Indian Spring? Retrieved May 2, 2015.
3. Basu, M. (2013). The Girl whose Rape Changed a Country. Retrieved September 7, 2015, from <http://edition.cnn.com/interactive/2013/11/world/india-rape/>

4. Brown, S. (2013). "She could have been me": Action urged after Delhi gang rape case. Retrieved from <http://www.cnn.com/2013/01/04/world/asia/irpt-new-delhigang-rape-ireport-reaction/>
5. Chehat. (2015). Violence against women: Collective: struggles against gender violence. Retrieved May 31, 2015, from <http://violenceagainstwomen.cehat.org/ong-mumbai-helpcenter.php?page=Womens+Movement+in+India>
6. Christie, N. (1986). The ideal victim. In E. A. Fattah (Ed.), *From crime policy to victim policy*. Basingstoke: Macmillan (pp. 17–30). Basingstoke: Macmillan.
7. Crenshaw, K. (1994). Mapping the margins: Intersectionality, identity politics, and violence against women of color. In 1994 (pp. 93–118).
8. Davis, K. (2008). Intersectionality as buzzword A sociology of science perspective on what makes a feminist theory successful. *Feminist Theory*, 9(1), 67–85.
9. Gandhi, N., & Shah, N. (1992). *The Issues at Stake: Theory and practice in the contemporary women's movement in India* (1st ed.). New Delhi: Kali for Women.
10. Gilmartin--Zena, P. (1983). Attribution theory and rape victim responsibility. *Deviant Behavior*, 4(3-4), 357–374.
11. Hanmer, J., & Maynard, M. (1987). *Women, violence and social control* (Vol. 23). Macmillan
12. Yuval-Davis, N. (2006). Intersectionality and feminist politics. *European Journal of Women's Studies*, 13(3), 193–20
13. Yin, R.K., 2014. *Case Study Research*, London: Sage Publications.
14. Shields, S. A. (2008). Gender: An intersectionality perspective. *Sex Roles*, 59(5), 301–311.
15. Sahai, R. (1981, February). *Baghpat Report Supports Oppression*. Dinmaan. Retrieved from <http://www.pucl.org/from-archives/may81/baghpat.htm>