

## **12. Multiple Layers of Discrimination: An Intersectional Approach to Human Rights for Women and Children**

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**Abstract:**

- *This research looks at the important idea of "intersectionality" in human rights, which means understanding how different parts of a person's identity—like gender, race, class, disability, and sexual orientation—come together to create unique and stronger forms of discrimination. Traditional human rights approach often look at problems separately, without recognizing how these different parts of a person's identity can overlap and make things harder for them. This study aims to explain how these combined factors lead to greater challenges, especially for women and children.*
- *The research explores how people with multiple marginalized identities face extra disadvantages. For example, women from racial minorities may face more challenges because of both their gender and race. Women and children with disabilities face discrimination on two fronts—because of both their gender and disability. The study also discusses how issues like gender-based violence, racial discrimination, and economic hardships are not isolated but are all connected and make life harder for many people.*
- *This paper argues that we need a more thoughtful and inclusive approach to human rights. It calls for laws and policies that recognize the complicated ways discrimination works. By showing the flaws "one-size-fits-all" equality, this study encourages a shift toward a system that truly listens to the experiences of marginalized communities, offers fair access to justice, and ensures real equality for everyone, no matter their background or identity*

**Keywords:**

*Intersectionality, Human Rights, Compounded Discrimination, Gender Inequality, Racial Discrimination, Socio-economic Status, Disability Rights, Sexual Orientation, Marginalized Communities, Gender-based Violence, Inclusive Legal Frameworks, Social Justice, Identity-based Oppression, Intersectional Feminism, Holistic Policy Approaches.*

### **12.1 Introduction:**

Intersectionality is a way of understanding how different parts of a person's identity, like gender, race, class, age, and disability, work together to create unique forms of discrimination or disadvantage. The term was introduced by Kimberlé Crenshaw in 1989. It shows that discrimination doesn't happen because of just one part of a person's identity, but because of the combination of many factors. When we apply intersectionality to human rights, it helps us understand how different groups, especially women and children, face

inequalities in different ways. Women and children often face extra challenges because of their gender and age. But this can be made worse by other factors like race, class, or disability. For example, while all women may face gender discrimination, women from marginalized groups, like Dalit women in India or Indigenous women worldwide, experience additional discrimination because of their caste or ethnicity. Likewise, children who are poor, have disabilities, or belong to minority communities are more likely to face abuse and human rights violations. Using an intersectional approach is crucial to recognizing and addressing these overlapping forms of inequality.

The goal of this research paper is to look closely at the many layers of discrimination that affect women and children from an intersectional perspective. It aims to point out the flaws in traditional human rights approaches, examine how different identities impact access to justice and services, and suggest ways to create more inclusive laws and policies. This paper stresses the importance of using an intersectional approach to human rights work in order to achieve real fairness and justice.

## **12.2 Theoretical Framework: Understanding Intersectionality:**

Intersectionality is a term introduced by legal scholar Kimberlé Crenshaw in 1989. It explains how different parts of a person's identity—like race, gender, and class—combine to create unique experiences of discrimination and oppression. Crenshaw first used this concept to highlight the struggles of African American women, who face both racism and sexism in ways that are often ignored by traditional feminist or civil rights movements. Today, intersectionality helps us understand how different social identities overlap and shape people's experiences.

Traditional human rights approach often look at discrimination as one issue at a time, such as gender inequality or racial injustice. However, this method doesn't consider how people's identities interact. For example, a policy designed to promote gender equality might not take into account how race, poverty, or disability affects women from different backgrounds. Intersectionality recognizes that these overlapping factors create unique challenges that require tailored solutions.

Using an intersectional perspective is essential to understanding and addressing systemic inequalities. It shows how legal, social, and economic systems often fail people who belong to multiple marginalized groups. For instance, women and children from poor backgrounds may struggle to access healthcare, education, or legal help compared to wealthier individuals. By recognizing these overlapping challenges, policymakers and advocates can create better strategies to support marginalized groups and ensure fairness and justice for everyone

## **12.3 Historical Overview: Evolution of Intersectional Human Rights for Women and Children:**

The history of human rights, especially concerning women and children, reflects centuries of systemic discrimination rooted in patriarchy, colonialism, and socio-economic hierarchies. The understanding of these rights has evolved significantly, moving towards an

intersectional approach that recognizes the compounded impacts of gender, age, race and class. This overview traces the historical trajectory leading to the modern intersectional perspective on the human rights of women and children.

### **1. Ancient and Pre-Modern Societies:**

In early civilizations like Mesopotamia, ancient India, and China, patriarchal norms dictated social hierarchies, relegating women and children to subordinate roles. Women were seen primarily as caretakers or property, and their legal status was tied to male relatives. Children, likewise, were treated as assets, often lacking individual rights. Legal codes, like the Code of Hammurabi or the Manusmriti, institutionalized gender and age-based discrimination, limiting autonomy for both women and children.

Religious and cultural norms during the medieval period further entrenched gender-based inequalities. Practices like child marriage, dowry systems, and restrictions on women's education were prevalent across societies, creating layered vulnerabilities for women and girl children. However, occasional reforms or matrilineal practices in certain cultures offered limited rights, hinting at early resistance to strict patriarchal systems.

### **2. 18<sup>th</sup> and 19<sup>th</sup> Centuries:**

The Age of Enlightenment introduced the concept of universal human rights, but the early frameworks primarily focused on the rights of men. Foundational documents like the United States Declaration of Independence (1776) and the French Declaration of the Rights of Man and of the Citizen (1789) largely ignored the rights of women and children.

The first wave of feminism in the 19th century began to challenge these exclusions. Activists such as Mary Wollstonecraft argued for women's access to education and legal rights. At the same time, child welfare reform movements emerged in response to the exploitation of child labour during the Industrial Revolution. Early child protection laws, like the Factory Acts in the UK, aimed to address the harsh conditions faced by working children.

### **3. Early 20<sup>th</sup> Century:**

The early 20<sup>th</sup> Century marked a pivotal period for recognizing children as rights holders. The Geneva Declaration of the Rights of the Child (1924) was one of the first international acknowledgments of the need for special protections for children, focusing on their well-being and education. However, it lacked enforceability and remained limited in scope.

Meanwhile, the women's rights movement gained momentum, particularly in the context of the global suffrage movement. Women in several countries achieved the right to vote, but broader legal and social inequalities persisted. The intersectional challenges faced by marginalized women, particularly women of colour, were beginning to be recognized, although mainstream feminism often failed to address these complexities.

#### **4. Post-World War II:**

The horrors of World War II and the Holocaust led to a global commitment to human rights, resulting in the Universal Declaration of Human Rights (1948). While the UDHR was a landmark document, its application often failed to women, who continued to face systemic barriers.

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (1979) and the Convention on the Rights of the Child (CRC) (1989) were significant steps forward. CEDAW explicitly targeted gender-based discrimination, while the CRC recognized children as individual rights holders for the first time. However, the siloed approach of these treaties did not fully address the overlapping and intersecting nature of discrimination.

#### **5. Late 20<sup>th</sup> Century:**

The concept of intersectionality, introduced by legal scholar Kimberlé Crenshaw in 1989, highlighted the need to understand how multiple identities (e.g., gender, race, class) intersect to create unique experiences of oppression. This framework was pivotal in shaping a more nuanced approach to human rights for women and children, especially those from marginalized communities.

Feminist movements in the late 20th century began incorporating intersectional analysis, advocating for the rights of indigenous women, women of color, and LGBTQ+ communities. Similarly, children's rights activists began focusing on issues such as child labour, trafficking, and access to education, emphasizing the need to consider socio-economic factors and systemic barriers.

#### **6. 21st Century:**

In the 21st century, the global human rights discourse has increasingly adopted an intersectional approach. The Sustainable Development Goals (SDGs), introduced in 2015, emphasize inclusivity, equity, and the elimination of all forms of discrimination, recognizing the interconnected nature of social injustices faced by women and children.

Recent movements like **#MeToo**, **Black Lives Matter**, and campaigns for climate justice have further underscored the importance of intersectionality in human rights advocacy. These movements highlight how intersecting factors like race, gender identity, age, and socio-economic status amplify discrimination and demand a more integrated approach in legal and policy frameworks.

### **12.4 Analysis and Discussion:**

This section examines how overlapping identities—like gender, caste, ethnicity, and economic status—worsen human rights violations against women and children. By analysing data, case laws, and real-world examples, it connects these issues to the research goals and advocates for fairer, more inclusive policies.

### **1. Data Analysis: Understanding Intersectional Inequalities:**

Global data shows how multiple identities create deeper discrimination. For example, the UNDP highlights those women and child in poor, conflict-hit areas face higher poverty levels, less access to education, and poor healthcare. UNICEF studies reveal that girls from minority ethnic groups are 30% less likely to finish primary school than boys from the same community. These statistics prove that gender, poverty, and ethnicity together worsen vulnerabilities, showing the need for focused solutions.

### **2. Case Law: How Courts Address Intersectionality:**

Courts are slowly recognizing intersectionality in human rights cases. In India's *Bhanwari Devi v. State of Rajasthan* (1992), the case exposed the combined impact of gender and caste discrimination when a Dalit woman was denied justice after facing sexual violence. Similarly, in *González et al. ("Cotton Field") v. Mexico* (2009), the Inter-American Court of Human Rights acknowledged the particular struggles of indigenous women in femicide cases. These examples show how considering overlapping identities in legal cases is key to delivering fair justice.

### **3. System Failures in Tackling Intersectional Discrimination:**

Existing systems often overlook the added challenges of intersectional discrimination. For instance, policies against gender-based violence may not address the extra hurdles faced by women with disabilities or those from marginalized communities. Reports by Human Rights Watch reveal that refugee girls face higher risks of exploitation because they are both minors and displaced persons. These gaps show that treating social identities as separate categories fails to capture their interconnected realities.

### **4. Linking Analysis to Research Goals:**

The evidence confirms that intersectional discrimination is widespread, affecting legal, economic, and social aspects of life. This supports the need for human rights frameworks that address overlapping vulnerabilities. For example, South Africa's Equality Act (2000) recognizes combined discrimination and offers remedies tailored to such cases, providing a model for other countries.

### **5. Policy Recommendations;**

The analysis highlights the need for policies that address multiple layers of discrimination. Instead of a one-size-fits-all approach, policies must target specific groups and their unique challenges. For example, programs could focus on improving education for girls in rural minority communities or ensuring justice for survivors of violence who face multiple barriers. Adopting an intersectional approach will make human rights systems more effective and fairer, promoting real equality for all.

## **12.5 Findings/Results:**

### **1. Intersectional Discrimination is Widespread and Complex:**

The study shows that discrimination is not just about one factor like gender or age—it is a mix of many identities like ethnicity, poverty, and disability. Women and children from marginalized groups often face the worst forms of human rights violations. For example, data shows that poor girls or those from minority communities have less access to education and healthcare, making it harder for them to enjoy basic rights.

### **2. Legal Systems Partially Recognize Intersectionality:**

Some legal cases, like *Bhanwari Devi v. State of Rajasthan* in India and *González et al. v. Mexico* internationally, show progress in addressing intersectional issues. However, most laws and frameworks treat discrimination as a single issue, ignoring how overlapping identities create bigger challenges. This gap leads to many people, especially those facing multiple types of oppression, not getting proper justice.

### **3. Policies Don't Fully Address Overlapping Disadvantages:**

Even though global goals like the Sustainable Development Goals (SDGs) aim for equality, many policies fail to help groups with overlapping vulnerabilities. For example, programs for gender equality often ignore poverty or race, leaving behind women from disadvantaged backgrounds. Child protection policies also fail to address the combined challenges of gender and age, especially for children in crisis situations like war or poverty.

### **4. Advocacy Movements Emphasize Intersectionality:**

Movements like #MeToo and Black Lives Matter show how important it is to focus on intersectional discrimination. These global efforts give marginalized groups a voice and draw attention to systemic inequalities. They stress that intersectionality should be a key part of any human rights action plan.

### **5. Better Frameworks and Policies are Needed:**

The study highlights that human rights frameworks must recognize and address overlapping forms of discrimination. Laws like South Africa's Equality Act provide a good example by explicitly acknowledging intersectional challenges. Similarly, targeted policies—like education programs for girls in rural minority areas or better legal support for survivors of multiple forms of discrimination—are essential to create real change.

### **Implications:**

The findings make it clear that we need a big shift in how human rights are understood and implemented. Including intersectionality in policies and legal systems will ensure that the unique struggles of marginalized women and children are addressed. This approach is not just about fairness—it's about building a more inclusive and just world for everyone.

## **12.6 Case Laws:**

### **1. Vishaka v. State of Rajasthan<sup>1</sup>:**

The Supreme Court established the Vishaka Guidelines to address workplace sexual harassment, treating it as a violation of Articles 14 and 21 of the Constitution. The case stemmed from Bhanwari Devi's gang rape while opposing child marriage, spotlighting systemic gender-based violence. These guidelines later formed the basis for the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013.

### **2. Indian Young Lawyers Association v. State of Kerala<sup>2</sup>:**

The Supreme Court struck down the prohibition on menstruating women entering Sabarimala Temple, declaring it unconstitutional under Articles 14, 15, and 25. This case addressed the intersection of gender equality and religious freedom, challenging patriarchal customs. Despite the progressive ruling, it faced substantial societal resistance.

### **3. Shah Bano Case<sup>3</sup>:**

The Supreme Court ruled that Muslim women are entitled to maintenance under Section 125 of the CrPC, irrespective of personal religious laws. This decision highlighted gender justice within marriage and divorce, challenging patriarchal norms in personal laws. It catalyzed national debate, leading to the Muslim Women (Protection of Rights on Divorce) Act, 1986.

### **4. The State of Uttar Pradesh v. Ramesh Chandra<sup>4</sup>:**

The Supreme Court emphasized that the child's best interest is paramount in custody disputes, prioritizing their well-being over parental rights. The judgment aligned with the principles of the Juvenile Justice Act and the CRC. It recognized the intersection of emotional, social, and economic factors in custody decisions.

### **5. R. K. (Rathinam) v. Union of India<sup>5</sup>:**

The Supreme Court upheld reproductive autonomy as part of Article 21's right to life, addressing abortion rights and female foeticide concerns. It called for liberal application of the MTP Act, ensuring women's health and dignity. This case highlighted the intersection of gender discrimination and reproductive health rights.

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<sup>1</sup> (1997 (6) SCC 241

<sup>2</sup> (2018 (3) SCC 778

<sup>3</sup> (1985 (2) SCC 556)

<sup>4</sup> (2007(5) SCC 722

<sup>5</sup> (1994 (3) SCC 394

## **6. National Legal Services Authority v. Union of India<sup>6</sup>:**

The Supreme Court recognized transgender persons as a third gender, affirming their constitutional rights to dignity, equality, and self-identity. It mandated reservations and legal protections for transgender individuals in education, employment, and healthcare. This landmark judgment marked a pivotal moment for LGBTQ+ rights in India.

### **12.7 Challenges in Implementing an Intersectional Approach:**

- **Lack of Detailed Data:**

One of the biggest challenges is the lack of specific data that shows how different identities combine to create discrimination. Most data collection focuses on a single category, like gender or race, without considering how these factors overlap. For example, statistics on violence against women might treat all women as one group, ignoring the unique challenges faced by women from different racial, economic, or social backgrounds. Without this detailed information, it's hard to fully understand the problem or create policies that address the unique needs of marginalized groups. It also makes it difficult to measure progress in tackling these issues effectively.

- **Gaps in Legal and Policy Frameworks:**

Many laws and policies are designed to deal with single issues, such as gender inequality or racial discrimination, instead of addressing how these issues interact. For example, laws against gender-based violence might not fully protect women of color or disabled women, who often face additional and unique forms of abuse. This lack of legal recognition for overlapping discrimination leaves the most vulnerable groups without adequate support and perpetuates inequality.

- **Cultural and Social Resistance:**

In many conservative or patriarchal societies, traditional views about gender roles and hierarchies make it difficult to recognize intersectionality. People may see these ideas as too complicated or threatening to existing power structures. For instance, in societies where women's rights are already limited, discussing how factors like race, class, or sexual orientation affect women differently may be ignored or resisted. Marginalized groups, such as LGBTQ+ individuals, often face cultural bias and stigma, which further prevents acknowledgment of their unique challenges. Changing these deeply rooted beliefs and raising awareness about intersectionality are crucial for creating more inclusive societies.

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<sup>6</sup> (2014 (5) SCC 438



## **12.8 Recommendations for Policy and Legal Reforms:**

- 1. Add an Intersectional Lens to Laws and Policies:** Laws and policies should address the combined effects of multiple factors like gender, caste, race, disability, and class instead of focusing on them separately. For instance, laws protecting women and children must recognize that marginalized groups face unique challenges due to overlapping forms of discrimination. In India, the Constitution and laws related to child protection and women's rights should explicitly include intersectionality. Similarly, international treaties should go beyond addressing one form of inequality at a time and reflect the complex realities people face.
- 2. Collect Detailed Data to Inform Policies:** Governments and organizations need to gather detailed data that shows how various factors, such as gender, caste, disability, or economic status, intersect and create barriers. For example, data on education should show how these identities affect access to schools for girls from rural, minority backgrounds. Such detailed information will help policymakers design effective solutions tailored to the specific needs of diverse groups. International bodies and governments should invest in tools and surveys that provide this kind of intersectional data.
- 3. Raise Awareness Through Education and Training:** Promoting awareness about intersectionality is key to changing attitudes and breaking down biases. Public campaigns, school education, and professional training (for police, judges, healthcare workers, etc.) should teach people how overlapping discrimination affects marginalized women and children. Schools can include lessons on diversity and equality, while training programs for professionals can focus on understanding the unique struggles of individuals facing multiple forms of disadvantage. These efforts can create a more inclusive and respectful society.
- 4. Work Together: Governments, NGOs, and Communities:** A collaborative approach is crucial to ensuring that policies are effective and inclusive. Governments should lead in creating laws and policies that protect marginalized groups, but they should work closely with NGOs and local communities. NGOs bring valuable on-the-ground knowledge about the needs of disadvantaged people, and community participation ensures that policies are practical, culturally sensitive, and relevant to local contexts. This teamwork can help build solutions that are more sustainable and widely accepted.
- 5. Strengthen Grassroots Advocacy:** Support from grassroots movements is essential to ensure that the voices of marginalized groups are heard. Governments should create platforms where women, children, and other disadvantaged groups can share their experiences and needs. Empowering these communities through resources and training can amplify their ability to influence policies that directly affect their lives.
- 6. Promote Intersectionality in International Forums:** International organizations like the United Nations should take the lead in promoting intersectionality in global policymaking. By encouraging member nations to adopt intersectional approaches, these bodies can push for broader recognition of the unique challenges faced by people with overlapping identities. For instance, initiatives under the Sustainable Development Goals (SDGs) can include specific programs for marginalized women and children to ensure equity in education, healthcare, and legal protection.

### **Suggestions for Future Work:**

- **Incorporate Local Perspectives:** While intersectionality is a global concept, its implementation must be adapted to local contexts. Policymakers should seek input from community leaders and grassroots organizations to develop strategies that resonate with local realities.
- **Monitor and Evaluate Progress:** Governments and organizations should set measurable goals for reducing intersectional discrimination and regularly track their progress. This could include reviewing legal cases, monitoring access to services, and gathering feedback from affected communities.
- **Encourage Inclusive Leadership:** Policies are more likely to succeed when diverse voices are included in decision-making. Governments and organizations should prioritize appointing leaders from marginalized communities to ensure representation in policy formulation and implementation.

### **12.9 Conclusion:**

This study underscores the importance of integrating an intersectional perspective into human rights frameworks to tackle the layered and complex forms of discrimination faced by women and children. Systemic oppression is not linear but multidimensional, deeply embedded in the social, legal, and economic fabric of society. The gender, class, caste, disability often overlap, creating unique challenges that existing frameworks struggle to address comprehensively. International treaties like the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC) have made significant strides in addressing gender and age-specific vulnerabilities. However, these frameworks largely overlook the compounded discrimination arising from intersecting identities.

This gap calls for a transformative shift in how we approach human rights protection. Legal systems must move beyond single-axis discrimination to include robust laws that explicitly recognize and combat intersectional vulnerabilities. For instance, South Africa's *Promotion of Equality and Prevention of Unfair Discrimination Act* offers an example of integrating intersectionality into legislation. Similarly, targeted and inclusive policy measures are essential to ensure equitable access to critical resources such as education, healthcare, and justice, particularly for women and children in marginalized communities.

Additionally, the role of data cannot be overstated. Accurate and nuanced data collection is vital to understanding the realities of individuals with intersecting identities. This evidence will guide policymakers to design effective, evidence-based interventions. Grassroots advocacy and community-based initiatives are equally significant, as they amplify the voices of marginalized groups and provide them with opportunities to shape policies that directly impact their lives. The future of intersectional research is vast and promising. Issues such as climate justice, digital rights, and migration present new layers of discrimination that require exploration through an intersectional lens. Longitudinal studies examining the long-term impact of intersectional policies and programs will help refine and enhance strategies to meet the needs of vulnerable groups.

By adopting an intersectional approach, we can create a more inclusive and equitable human rights framework. This approach ensures that the unique struggles faced by women and children are not just acknowledged but addressed effectively. Beyond offering protection to marginalized groups, such a framework fosters systemic change and promotes a shift towards justice and equality for all. In essence, an intersectional perspective is not merely an addition to human rights discourse but a necessity for achieving a fairer and more inclusive society.

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