Gender Equality vis-à-vis Right to Sexual Orientation



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Abstract

The females in the gender spectrum and the diverse sexual orientation groups excluding the traditional heterosexual group have been dispensed with discriminatory treatment. Lack of sensitivity towards people of a diverse sexual orientation ignites hostility towards these sexual minorities which is observed in the form of laws which criminalise homosexuality, allow pervasive discrimination, death penalties etc. by both public and private entities. Repression also translates to social unrest and dissatisfaction at large. Individuals are put under immense pressure by society to follow the conventional setup rather than withstand the inequalities. International

and regional human rights groups play an inevitable role in the promotion and protection of human rights. They are there to incorporate the right to be free of discrimination based on sexual orientation and to express one's sexuality and despite some of these societal developments and legal implementation of fundamental rights, lesbian, gay, bisexual, and transgender community (LGBT+) continue to face challenges and violence in the society all over the world. Sexual orientation is a new concept in human rights legislation and practice, as well as one of the most contentious in politics. Their right to be free from discrimination and harassment is frequently violated by removing sexual orientation from anti-discrimination laws, constitutional provisions, or enforcement. Their right to life is also violated in states where the death penalty is applicable for sodomy. Their freedom of movement is infringed on by bi-national couples since their same-sex relationship is not recognised. Their freedoms of expression and association may be openly restricted by legislation, or lesbians, homosexuals, and bisexuals may not be able to exercise them due to the homophobic milieu in which they live. Right to Sexual Orientation is entitled to everyone irrespective of their gender and hence strengthening the need for gender equality.

UN Women Goodwill Ambassador, Emma Watson rightly quoted, "It is time that we all see gender as a spectrum instead of two sets of opposing ideals." The current paradigm witnesses the roaring desire and unrest to achieve an equal outlook for individuals. Individuals are often subjected to discrimination and different behaviour based on prejudice and stereotypical ideals. Former UN General Secretary Kofi Annan emphasises on gender equality as an essential requirement for the development and peace of every nation. In lieu of the same, sexual orientation showcases a different shade of discrimination. Right to Sexual Orientation is entitled to everyone irrespective of their gender and hence strengthening the need for gender equality. American social reformer Frances Wright appositely quoted "Equality is the soul of liberty; there is, in fact, no liberty without it."

In the Contrast, the females in the gender spectrum and the diverse sexual orientation groups excluding the traditional heterosexual group have been dispensed with discriminatory treatment. The same has been justified on the account of religion, culture and societal laws. Lack of sensitivity towards the people of a diverse sexual orientation ignites hostility towards these sexual minorities which is observed in the form of laws which criminalise homosexuality, allow pervasive discrimination, death penalties etc. by both public and private entities. Discrimination in accordance with this is a transnational issue. Equality of opportunities and rights is crucial to ensure the upliftment of the society as a whole. The representation will facilitate in creating a conducive environment to counter and resolve the issues faced by them. Repression also translates to social unrest and dissatisfaction at large. Individuals are put under immense pressure by society to follow the conventional setup rather than withstand the inequalities.

Furthermore, international and regional human rights groups play an inevitable role in the promotion and protection of human rights. They are there to incorporate the right to be free

of discrimination based on sexual orientation and to express one's sexuality and despite some of these societal developments and legal implementation of fundamental rights, lesbian, gay, bisexual, and transgender community (LGBT+) continue to face challenges and violence in the society all over the world. Sexual orientation is a new concept in human rights legislation and practice, as well as one of the most contentious in politics. Hate speech, stereotypes, homophobic derogations and prejudices against the LGBT+ community are firmly ingrained in societal norms and behavioural patterns. The repressed groups are restricted to the economic sector and hence possible increases in the Gross National Income (GNI) and Gross Domestic Product (GDP) are not materialized. There is a long-standing stigma towards LGBT+ individuals and a lack of authenticating legislative framework is typically the outcome of such stigma. To this day, homosexuality is still illegal in 70 nations. According to Statista Research Department, Brazil is a country with LGBT+ rights protections and legal same-sex marriage but is reported to have the world's highest LGBT murder rate, with a whopping 380 murders in 2017 alone and an increase of 30% from 2016. In some countries, 85% of LGBT+ students experience homophobic and transphobic violence in school while 45% of transgender students drop out of school.
As of August 2020, consensual sexual acts between adults of the same sex are illegal in 69 countries, the following 9 countries prescribe capital punishment for homosexuality as of July 2020:

- Iran
- Brunei
- Mauritania
- Qatar
- Saudi Arabia
- Nigeria
- Somalia
- Yemen
- Afghanistan

The right to be free from discrimination and harassment is frequently violated by removing sexual orientation from anti-discrimination laws, constitutional provisions, or enforcement.
The right to life is violated in states where the death penalty is applicable for sodomy.
The freedom of movement is infringed to bi-national couples since their same-sex relationship is not recognised.
The freedoms of expression and association may be openly restricted by legislation, or lesbians, homosexuals, and bisexuals may not be able to exercise them due to the homophobic milieu in which they live.

The legal obligations of States to safeguard the human rights of LGBT+ people are firmly established in the international human rights law on the basis of the Universal Declaration of Human Rights and agreed international human rights treaties. The UN General Assembly has urged all States to ensure the effective protection of the right to life and to investigate killings

upon discriminatory reasons, including sexual orientation.[1] The General Assembly of the Organisation of American States has also implemented its first resolution on Human Rights, Sexual Orientation and Gender Identity.[2]

Justice Albie Sachs of the South African Constitutional Court wrote:

"[i]in the case of gays, history and experience teach us that the scarring[biz] comes not from poverty or powerlessness, but from invisibility. It is the tainting of desire, it is the attribution of perversity and shame to spontaneous bodily affection, it is the prohibition of the expression of love, it is the denial of full moral citizenship in society because you are what you are, that impinges on the dignity and self-worth of a group. This special vulnerability of gays and lesbians as a minority group whose behaviour deviates from the official norm stems from the fact that[...]gays constitute a distinct though an invisible section of the community that has been treated not only with disrespect or condescension but with disapproval and revulsion".[3]

Regardless of anyone's sexual orientation or gender identity, everyone is entitled to rights and freedom as this is the inherent dignity of a human. The protection of people based on their sexual orientation does not necessitate the development of new or special rights for LGBT+ individuals. Instead, it necessitates the enforcement of universally applicable asylum laws and policies of non-discrimination in the enjoyment of all rights.

In a bird's eye view, the community ought to establish equality across gender and sexual orientation for a more empowered, richer and diverse world. Society has already taken a big leap in this field by accepting and acknowledging the same. Half the battle has already been won. Human society finds itself at an impasse where solutions to prevent or minimise the catastrophic turn of events in a possible future is to thrive for equal opportunities irrespective of divisions and choices. Interactive extra-curricular activities should be undertaken to bring these issues in the limelight. The authorities ought to initiate initiatives in this field to detect any potential threat that can restrict the process. This will act as a catalyst in the journey towards a brighter and more acceptable future. The time has come to act and take initiative, time might be slipping but a breakthrough is possible.

"When you do the things in the present that you can see, you are shaping the future that you are yet to see."

— Idowu Koyenikan, Wealth for All: Living a Life of Success at the Edge of Your Ability

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References

[1] See Resolutions on "Extrajudicial, summary or arbitrary executions" No.61/173 of 19 December 2006, No.59/197 of 20 December 2004 and No.57/214 of 18 December 2002.

[2] Resolution AG/RES.2435 (XXXVIII-O/o8) of 3 June 2008.

[3] Constitutional Court of Colombia, Judgement No.C-481/98 of 9 September 1998, paras. 10, 11 and 12 (Original in Spanish, unofficial translation).

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