CHAPTER IV

HUMAN RIGHTS RELATING TO WOMEN

*Human rights are not worthy of the name if they exclude the female half of the humanity*.433

John Locke introduced the concept of human rights in the 17th century in his book, *The Second Treatise of the Government*. The term Human Rights was introduced in the United States Declaration of Independence in 1776. The Declaration of Rights of Man and Citizen in 1789 was brought about due to the French Revolution. The Institute of International Law, New York, United States of America, prepared a Declaration of Human Rights and Duties in the year 1929. The idea relating to human rights gained momentum and became political from the years 1950 to 1970. The UNO (United Nations Organisation) insisted on all member countries to make provisions for Human Rights in their respective territories.

There cannot be a single definition of human rights. It includes multiple factors. Human Rights can be described as *Common rights for they are rights which all men and women in the world would share just as the common law in England, for example was the body of rules and customs, which unlike local customs, governed*

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In simple language human rights are those basic standards without which human beings cannot live in dignity. Human rights are indivisible, interdependent, inalienable, irrevocable, natural rights which are held by all persons equally and universally. Men and women both have equal access to these rights. Women cannot be denied these rights only because of their gender. The indivisibility and inter-reliance of human rights demonstrate that denial and lack of one right could have repercussions on the availability of other rights.

Human rights include the right to life, to food, to shelter and necessities, to health, to education, dignity and liberty and to be free. So the term "Human Right" means the civil, political, economic, social and cultural rights which are crucial for a democratic society. Human Rights of women are defined as, 'Collective rights for a woman to be seen and accepted as a person with the capacity to decide or act on her own behalf and to have equal access to resources and equitable social, economic and political support to develop, exercise her right as a full human being and to support the development of others.'

In a democratic way, the Indian Constitution also has guaranteed international recognized human rights and has established the accountability of the state for creating opportunities for full exercise of these rights. The Indian Constitution has set forth these rights of the human being in seven groups: (a) right to equality, (b) right to freedoms, (c) right against exploitation, (d) right to freedom of religion, (e) cultural and educational rights, (f) right of property, (g) right to constitutional remedies. Former Chief Justice of India J.S.Verma has rightly stated that 'Human dignity is the quintessence of human rights.' The Court in the case of

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Maneka Gandhi v. Union of India\(^{437}\) has held that, ‘All those rights which are essential for the protection and maintenance of dignity of individuals and create conditions in which every human being can develop his personality to the fullest extent may be termed human rights.’ D.D.Basu defines human rights, as ‘those minimum rights which every individual must have against the State or other public authority by virtue of his being a member of human family, irrespective of any other consideration.’\(^{438}\) Human rights are defined differently but all agree that human rights are necessary for granting dignity to the human being. So even women have full rights to be accorded human rights.

This chapter is an attempt to study the human rights accorded to women at the different International treaties and conventions. It also deals with the ways in which the human rights have been incorporated in the Constitution and other legislations in India.

The struggle for women’s equality is part of the struggle for a better world for all human beings and all societies.\(^{439}\) The idea of equality between the sexes appeared in 1792 in the debate over the French Revolution and the American Revolution. British feminist Mary Wollstonecraft, in fervent defense of civil liberties, confronted the attitudes of liberal and conservative thinkers alike in their advocacy of the rights of man and their condemnation of women's capabilities in the book, ‘Vindication of the Rights of Women.’ John Stuart Mill, who can be described as a 'liberal feminist' in his advocacy of equal opportunities for women in public life, published, ‘The Subjection of Women’ in 1869. Mill presented a drastic review of the economic and social causes of women's subjugation with reformist proposition for the removal of these reasons of subjugation. The ideas of Mill and Wollstonecraft formed the foundation of the nineteenth and early twentieth-century movement for the recognition of women's rights as human.

\(^{437}\) AIR 1978 SC 619
\(^{439}\) Boutros Boutros Ghali, Former Secretary General of United Nations Organisation as quoted in Gender Discrimination and Human Rights, Dr. Swarna Lata Sharma, K.K.Publications, New Delhi, 2000, P.1
rights in Europe and North America. Research by historians revealed that the idea of women's rights as human rights started in the early fifteenth century with the 1405 publications of Le livre de la cite domes (The Book of the City of Ladies) by Christine de Pizan. The United States Congress passed the Comstock Act in 1873 which equated birth control information with pornography and made it illegal to mail, transport or import any kind of birth control devices or information in United States. Sanger and her colleagues tried their best to spread awareness about birth control devices. Women were already involved in the public spheres even before the United Nations was formed. The linkage between women's rights and human rights was effectively made in United Nations Charter in its introduction and in the four separate chapters of the Charter.

The International Woman Suffrage Alliance was formed in the year 1902. The principles on which the International Woman Suffrage Alliance was established were precursors to ideas found later in the Convention. By the year 1904, when these were adopted at their Berlin conference, a lot of women were employed as clerks or secretaries in offices and in industrial production. In 1915 after the World War I, an International Congress of women was held in Hague in an effort to promote peace among the nations at war. The International League for Peace and Freedom was organized for peace in 1920.

The Charter of the United Nations for the first time introduced equal rights for men and women in specific terms. The preamble to the Charter of the United Nations proclaims, 'to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and to employ international machinery for the promotion of the economic and social advancement of all peoples'. Article I of the Charter states; 'to achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character and in promoting and encouraging

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440 Arvonne S. Fraser, Becoming Human, The Origins and Development of Women's Human Rights, Edited by Marjorie Agosin, Women, Gender, and Human Rights, A Global Perspective, Rawat Publications, Jaipur and New Delhi, 2003, P.16
respect of human rights as a fundamental freedoms for all without any distinction as to race, sex, language or religion.'

Article 6 of this Charter states that, 'The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs.'

Article 8 of this Charter further states that, 'Articles 13, 55 and 76 call for the realization of human rights and fundamental freedoms, for all without distinction as to race, sex, language or religion'. Under Article 56 Member States have pledged to take joint and separate actions in cooperation with the United Nations to achieve such aims.

The equal rights of men and women clause in the United Nations Charter established a legal basis for the international struggle to affirm women's human rights. Minerva Bernardino of the Dominican Republic suggested that a committee of the Commission on Human Rights be established to work on women's rights. The New Zealand chair of the Economic and Social Council Organization Committee took up the suggestion and established the Human Rights Sub-Commission on the Status of Women. Eleanor Roosevelt, widow of the President Franklin Roosevelt was the drive behind the establishment of the commission on the social status of women. The purpose of the Commission was to promote women's rights in all fields of human endeavor. According to Margaret E. Galey, 'The object was to elevate the equal rights and human rights status of women, irrespective of nationality, race, language or religion in order to achieve equality with men in all fields of human enterprise and to eliminate all discrimination against women in statutory law, legal maxims or rules or in interpretations of customary law.' Since decades the organs of United Nations

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441 Margaret E. Galey, Promoting Non discrimination against Women; the UN Convention on the Status of Women, International Studies Quarterly 23 (1979), P.276
worked relentlessly for improving the status of women and for eliminating
discrimination against them. Within the established United Nations system these
measures designed to attain the above mentioned objectives originated in the
Commission on the Status of women, a functional commission of the Economic
and Social Council.

Universal Declaration of Human Rights (1948)

The Universal Declaration of Human Rights was unanimously adopted by the
United Nations General Assembly on 10th December, 1948. Consolidation of
principles that human rights are a matter of international concern and that the
international community is entitled to discuss and protect human rights has been a
remarkable accomplishment of the United Nations. Human rights are universal,
not confined to time, place or social or historical development. The United
Nations Declaration of Human Rights, 1948 provides a common standard of
achievement for all peoples and all nations. There has been a systematic growth in
International Trade laws along with human rights. The adoption of the Universal
Declaration of Human Rights (UDHR) in 1948 by the United Nations General
Assembly was a highpoint in the development of International Human Rights
regime.

The wonderful feature of the Universal Declaration of Human Rights is that it is a
simple resolution of the General Assembly, which neither creates binding
obligation on the part of State to carry out its provisions, nor provides for its
enforcements, yet it constitutes a "common standard of achievement for all people
and all nations."\textsuperscript{442} The Universal Declaration for over sixty years by the United

Nations and other international organization and its incorporation in treaties and national constitution of other countries have given obligatory character to some its rights. The preamble to UDHR clearly states that "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world." Articles 1 and 2 of Universal Declaration of Human Rights states:

Article 1: "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood"

Article 2: ‘There are several international legal instruments which set universally acceptable procedures in relation to human rights and also to eliminate discrimination against women.’ There are over twenty three main United Nation Conventions relating to Human Rights in general and some specifically to women. Those specific to women are:

1. Convention on the Elimination of All Forms of Discrimination Against Women

2. Convention on Political Rights of Women

3. Convention on the Consent of Marriage, Minimum Age of Marriage and Registration of Marriages

4. Convention on the Nationality of Married Women, and

5. Convention on the Recovery Abroad of Maintenance

The principle of equal rights of men and women is mentioned in the following international instruments:

1. Convention and recommendation on Consent to Marriage, Minimum age for Marriage and Registration of Marriage
2. Supplementary Convention on the Abolition of Slavery, the Slave trade, the institution and practices similar to slavery


Five major United Nations legal instruments guarantee the protection of human rights, which are as follows:

1. Universal Declaration of Human Rights, 1948
2. International Covenant on Economic, social and Cultural Rights, 1966
3. International Covenant on Civil and Political Rights, 1966
4. Two optional protocols to the latter covenants

Both covenants recognize that human rights derive from the inherent dignity of human beings. The preamble and articles 1, 2, 3, 5 are virtually the same in International Covenant on Economic, social and Cultural Rights, 1966 and International Covenant on Civil and Political Rights, 1966.

**International Covenant on Civil and Political Rights 1966**

The main idea of this Covenant is that each state party undertakes to ensure to all individuals within its territory the rights recognized in this Covenant without distinction of any kind as race, colour, sex, language, religion, and includes the right to live with human dignity and all that goes with it.

**International Covenant on Economic, Social and Cultural Rights 1966**

The main theme of this Covenant is 1) that each party undertakes to step to the maximum of its available resources to achieve progressively the full realization of these rights by all appropriate means including legislation, 2) that State Parties
undertake to guarantee that these rights will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, nation or social origin, property, birth or other status.443

There are two documents on obscenity:

1. Agreement for the Suppression of the Circulation of Obscene Publications and

Agreement for the Suppression of the Circulation of Obscene Publications444

The Governments agreed to establish an authority charged with the duty to co-ordinate information which could facilitate the discovery and suppression of acts constituting offences against their internal legislations in respect of obscene writings, designs, pictures or objects.

International Convention for the Suppression of the Circulation of and Traffic in Obscene Publications445

The contracting parties have agreed to implement as effectively as possible the means of suppressing the circulation of and traffic in obscene publications. The High Contracting Parties agree to take all measures to discover, prosecute and punish any person engaged in committing any of the following offences and accordingly agree that it shall be a punishable offence446

1. for purposes of or by way of trade or for distribution or public exhibition to make or produce or have in possession obscene writings, drawings, prints, paintings,

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443 Article 1 of the International Covenant on Economic, Social, and Civil Rights
444 May 4, 1910
445 12 September 1923
446 Article 1 of the International Convention for the Suppression of the Circulation of and Traffic in Obscene Publications
printed matter, pictures, posters, emblems, photographs, cinematograph films or any other obscene objects;

2. for the purposes abovementioned, to import, convey or export or cause to be imported, conveyed or exported any of the said obscene matters or things, or in any manner whatsoever to put them into circulation;

3. to carry on or take part in a business, whether public or private, concerned with any of the said obscene matters or things, or to deal in the said matters or things in any manner whatsoever, or to distribute them or to exhibit them publicly or to make a business of lending them;

4. to advertise or make known by any means whatsoever, in view of assisting in the said punishable circulation or traffic, that a person is engaged in any of the above punishable acts, or to advertise or to make known how or from whom the said obscene matters or things can be procured either directly or indirectly.

During the first stage, specific legal rights of particular concern to women were promoted through conventions relating to employment, maternity, trafficking in persons, nationality, civil and political rights, marriage, education, and violence against women to which states at the local level contributed by acceding to them. During the second stage, states succeeded in including sex as prohibited grounds of discrimination in such agreements as the Universal Declaration of Human Rights and its two implementing Covenants, the Covenants on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights, collectively called the Bill of Rights as well as in Regional Human Rights Covenants. The International Human Rights Conference held in 1968 declared in the final proclamation that, ‘Since human rights and fundamental freedoms are indivisible,
the full realization of civil and political rights without the enjoyment of economic, social and cultural rights is impossible.\textsuperscript{447}

In 1972, the General Assembly\textsuperscript{448} proclaimed 1975 as International Women's year. This year was to be devoted to intensify action to promote equality between men and women, to ensure the full integration of women in the total development effort and to increase contribution of women to the strengthening of the world peace.

The third stage of development addressed the pervasive and structural stature of violations of women's rights through the Conventions on the Elimination of all Forms of Discrimination against Women. The Convention, though the most comprehensive of all instruments, has been slow to achieve its potential.

In the last two decades in particular, many other global initiatives had been taken to promote the cause of women, four world conferences on women, the adoption by consensus of the Nairobi Forward Looking Strategies (1985) and the Beijing Declaration and Platform for Action (1995). Other world conferences, particularly the Vienna Conference on Human Rights and the International Conference on Population and Development have advanced the understanding and global commitment to women's rights.

The Universal Declaration on Human Rights has inspired the Constitution of many countries. Even the Indian Constitution which was framed after the Universal Declaration of Human Rights has various provisions similar to the Universal Declaration. The number of fundamental rights guaranteed to individuals in Part III of the Indian Constitution are similar to the provisions of the Declaration is clear from the following chart:

\textsuperscript{448} Resolution 3010
<table>
<thead>
<tr>
<th>Name of the Rights</th>
<th>Universal Declaration</th>
<th>Indian Constitution</th>
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<tbody>
<tr>
<td>Equality before law</td>
<td>Article 7</td>
<td>Article 14</td>
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<tr>
<td>Prohibition of discrimination</td>
<td>Article 7</td>
<td>Article 15(1)</td>
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<tr>
<td>Equality of opportunity</td>
<td>Article 21(2)</td>
<td>Article 16(1)</td>
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<tr>
<td>Freedom of speech and expression</td>
<td>Article 1</td>
<td>Article 19(1)(a)</td>
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<td>Freedom of peaceful assembly</td>
<td>Article 20(1)</td>
<td>Article 19(1)(b)</td>
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<tr>
<td>Rights to form associations or unions</td>
<td>Article 23(4)</td>
<td>Article 19(1)(c)</td>
</tr>
<tr>
<td>Freedom of movement within the border</td>
<td>Article 13(1)</td>
<td>Article 19(1)(d)</td>
</tr>
<tr>
<td>Protection in respect of conviction for offences</td>
<td>Article 11(2)</td>
<td>Article 20(1)</td>
</tr>
<tr>
<td>Protection of life and personal liberty</td>
<td>Article 9</td>
<td>Article 21</td>
</tr>
<tr>
<td>Protection of slavery and forced labour</td>
<td>Article 4</td>
<td>Article 23</td>
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<tr>
<td>Freedom of conscience and religion</td>
<td>Article 18</td>
<td>Article 25(1)</td>
</tr>
<tr>
<td>Remedy for enforcement of rights</td>
<td>Article 8</td>
<td>Article 32</td>
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Convention of the Political Rights of Women (1953)

The first International instrument was the convention on political rights of women, which was adopted by the General Assembly in 1952. In this Convention, it was declared that women shall be entitled to vote in all elections on equal terms with men, without any discrimination and that women shall be eligible to hold
public office and to exercise all public function established by national law on equal terms with men. Women will also be eligible for elections to all publicly elected bodies, established by national law, on equal terms with men, without any discrimination.

Convention of the Nationality of Married Women (1957)

Article III laid down that, ‘Neither the celebration nor the dissolution of a marriage between one of its national and an alien, nor the change of nationality by the husband during the marriage shall automatically affect the nationality of the wife.’ Voluntary acquisition of the nationality of another state or the renunciation of the nationality of a nation shall not prevent the retention of the nationality of the wife.

Declaration on Elimination of Discrimination against Women (1967)

Article 10 of the Declaration directs that all appropriate measures shall be taken to ensure that women, married or unmarried have equal rights with men in the fields of economic and social life and in particular: a) the right, without discrimination on grounds of marital status or any other ground, to receive vocational training, to work, to free choice of profession and employment, and to professional and vocational advancement; b) the right to equal remuneration with men and to equality of treatment in respect of work of equal value; c) the right to leave pay, retirement privileges and provision for security in respect of unemployment, sickness, old age or other incapacity to work, d) the right to receive family allowances on equal terms with men.

449 Article II—Convention of the Political Rights of Women, 1953
450 Article I—Convention of the Nationality of Married Women, 1957
Convention on the Elimination of all forms of Discrimination against Women (1979) – (CEDAW)

Convention on Elimination of All Forms of Discrimination Against Women, 1979 focuses on the protection of women at the workplace. Article 11 of the Convention states that, 'State parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights in particular; a) the right to work as an inalienable right of all human beings'. CEDAW enumerates the legal status of women with a focus on a number of particular rights, including political participation, representation, education, employment and civil and business matters among others. Issues of reproductive rights of women and maternity rights, the right to protection of health and safety in working conditions including the safeguarding of the function of reproduction are mentioned throughout the treaty. To fulfill these purposes stated in Articles 2 and 55 of the Charter, the Declaration on the Elimination of Discrimination against Women was adopted, which finally led to the adoption of Convention of the Elimination of all form of Discrimination against Women.451 The Convention on Elimination of all forms of Discrimination against women was adopted in 1979 by the United Nations General Assembly and came into force on 3rd September, 1981. This Convention is the result of more than 30 years of work by the United Nations Commission on the status of women. Article 7 of this Convention provides that States Parties shall take all appropriate measures to eliminate discrimination against women in political and public life of the country. The Committee on the Elimination of Discrimination against Women, a treaty based body established in accordance with the Convention on the Elimination of All Forms of Discrimination against Women, has assumed the task of monitoring.

measures taken by Governments to put an end to discrimination on the basis of sex. Article 1 of CEDAW provides that 'the term discrimination against women shall mean 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'. It defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination. The Government of India signed the Convention against the Elimination of All forms of Discrimination against Women in 1979. It was only at the Vienna Convention that the Government of India ratified the said Convention on 19.6.1993. This convention reiterates that discrimination against women violates the principles of equality of rights and respect for women's dignity and is an obstacle to equality, to the participation of women on equal terms with men in the political, social, economic and cultural life of their countries, it hampers the growth of prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity and urges that change in the traditional role of women as well as role of women in society and in the family is needed to achieve full equality between men and women. This convention provides that all state parties must agree to take all appropriate steps for the advancement of women.

Article 3 of the CEDAW --- States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation to ensure the full development and advancement of women for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

452 Article 1 of the convention (CEDAW)
Article 5 of CEDAW lays down that 'States Parties shall take all appropriate measures: To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.'

Articles (709) of CEDAW provides that, 'States undertake to protect women's rights in political and public life.'

In Part III (Articles 10-14) of CEDAW, it is provided that, 'governments make various commitments to eliminate discrimination in education, employment, economic, social and cultural life.'

Part IV (Articles 15-16) of the CEDAW provides that, 'States parties have agreed to ensure equality of women with men before the law in the exercise of legal rights and family relationship, in particular on the basis of equality of men and women:

  g) the same personal rights as husband and wife including the right to choose a family name, a profession and occupation;

  h) the same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property.'

The general recommendations of the Convention on Elimination of All Forms of Discrimination against Women in the matter relating to sexual harassment at workplace in respect of Article 11 are:

"Violence and equality in employment:

Equality in employment can be seriously impaired when women are subjected to gender specific violence such as sexual harassment at workplace.

Sexual harassment can be humiliating and may constitute a health and safety problem; it is discriminatory when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment, including recruitment or promotion or when it creates a hostile working environment. Effective complaints, procedures and remedies, including
compensation, should be provided. States should include in their reports information about sexual harassment and measures to protect women from sexual harassment and other forms of violence or coercion in the workplace. Even the International Covenant on Civil and Political Rights of 1966 contains several prohibitions against violence.\textsuperscript{453} It is a comprehensive treaty on the rights of women. This convention provides the framework for governmental and international action to end discrimination against women.

The Universal Declaration of Human Rights was not legally binding so the two Covenants for the observance of human rights were enacted that is ICCPR (International Covenant of Civil and Political Rights) and ICESCR (International Covenant on Economic, Civil, and Political Rights). The effect is that the ratifying State is obliged to adopt legislative measures to implement the Covenants to ensure that the rights proclaimed in the Covenants are actually enforceable through State Courts.

\textbf{Declaration on the Elimination of Violence against Women}

The preamble to the declaration on the elimination of violence against women, 1993 states that `the declaration on the elimination of violence against women is the first international human rights instrument to exclusively deal with the issue of violence against women.' It affirms that violence against women violates, impairs or nullifies women's human rights and their exercise of fundamental freedom. The Declaration on the Elimination of Violence against Women, which was adopted by the United Nations General Assembly in 1993 and which states that: \textit{the term 'violence against women' means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary

\textsuperscript{453} Article 6,7,9,17 and 26 International Covenant on Civil and Political Rights, 1966
deprivation of liberty, whether occurring in public or private life.\textsuperscript{454} Declaration on violence against women calls on Government to exercise diligence to prevent, investigate and punish acts of violence relating to women.

In the year 1993 the United Nations convened a World Conference on Human Rights wherein the declaration called for action to integrate the equal status of human rights of women into the mainstream of United Nations system. It has emphasized the importance of working towards the elimination of violence against women in public and private life and urged eradication of all forms of discrimination against women. The Declaration also affirmed that the human rights of women should form an integral part of United Nations human rights instruments and urges the Government institutions, inter-governmental and non-governmental organizations to intensify their efforts for the protection of human rights of women and girl children.


The General Assembly on October 07, 1999 adopted the Optional Protocol to the Convention on the Elimination of Discrimination against Women. The protocol allowed the bypass of the Government to have the Committee to investigate their grievances. The states reaffirmed their determination to ensure the full and equal enjoyment by women of all human rights and fundamental freedoms and to take effective action to prevent violations of these rights and freedoms.

\textbf{Commission on the Status of Women}

This commission is a functional commission of the Economic and Social Council established by the Council in 1946. The functions of the commission are: to prepare recommendations and report to the ECOSOC (the Economic and Social Council).

\textsuperscript{454} Article I of the Declaration on the Elimination of Violence against Women
Council) on promotion of women's rights in political, economic, civil, social, and educational fields and to make recommendations to the Council on urgent problems requiring immediate attention in the field of women's rights with the object of implementing the principle that men and women shall have equal rights.

The Commission on the Status of Women is the primary technical body of the United Nations for the development of substantive policy guidance with regard to the improvement and development of women.455 This Commission revised its mandate to include the functions of promoting the objectives of equality, development and peace, monitoring the implementation of measures for the advancement of women and reviewing and appraising the progress made at the national, sub regional, sectoral and global levels. The Commission laid stress on the role of mass communication media on the formation of new attitudes towards the roles of women in present day society.

The International Women's Year, the World Conferences held at Mexico City in 1975 and Copenhagen in 1980 and the United Nations Decade for Women: Equality, Development and Peace contributed greatly to the process of eliminating obstacles to the improvement of the status of women at the national, regional and international levels. This Commission has served as the preparatory body for the World Conference on Women, held in Mexico City (1975), Copenhagen (1980), Nairobi (1985), Beijing (1995).

**World Conference on Human Rights**

The world conference on Human Rights urged the full and equal enjoyment by women of all human rights and that this be a priority for Government and for the United Nations. In particular, the world conference on human rights emphasizes on the significance of working towards the elimination of violence against women in public and private life, the elimination of all form of sexual harassment,

exploitation and trafficking in women, the elimination of gender bias in the administration of justice and the eradication of any conflicts which may arise between the rights of women and the harmful effects of any traditional, customary, or cultural prejudices and religious extremism. In short, it urged the eradication of all forms of discrimination against women. It has recognized the importance of the enjoyment by women of the standard of physical and mental health throughout their life span. It urged the governments and regional and international organizations to facilitate the access of women to the decision making posts and their greater participation in the decision making process. In 1975 the United Nations as part of its decade for women resurrected March 8 as the International Women’s Day. The World Conference on Human Rights urges Governments, institutions, intergovernmental and non-governmental organizations to intensify their efforts for the protection and promotion of human rights of women and the girl child.

**Vienna Declaration and Programme for Action (1993)**

The United Nations convened a World Conference on Human Rights. It contained an extensive section on women’s human rights. In its 33 sessions held in Vienna the commission stressed that a drastic effort must be made to evidence to inundate that advances towards women’s economic and political rights were slow or had actually stopped. It reflects the successful mobilization and organization of women’s human right activities throughout the world. Article 18 of the Vienna Declaration and Programme of Action states—‘The Human Rights of women and of the girl child are an inalienable, integral and indivisible part of universal human rights. The full and equal participation of women, in political, civil, economic, social and cultural life, at the national, regional and international levels, and the eradication of all forms of discrimination on grounds of sex are priority objectives of the international community’. The human rights of women

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should form a fundamental element of the United Nations human rights activities, including the endorsement of all human rights instruments relating to women. The declaration reiterated that gender based violence and all forms of sexual harassment and exploitation, including those resulting from cultural prejudice and international trafficking are incompatible with the dignity and worth of the human person, and must be eliminated. Vienna Conference on Human Rights is a turning point in the struggle for women’s human rights.

Conferences on women

The four conferences on women are as under:

Mexico conference -1975

The first world conference on women was held in Mexico City in 1975 which highlighted the themes of ‘Equality, Development and Peace’. The Conference adopted 1) the declaration of Mexico on the Equality of women and their contribution to development and peace,

2) the world plan of Action for the implementation of the objectives of the International women’s year,

3) regional plan of action

4) decision recommending the observance of United Nations Decade for women and the convening of a second world conference in 1980. One of the conclusions of this conference on women was that women should and could contribute to the progress of their country as well as any man could.

The conference tried to create a just society in which every person i.e. men and women and children may live with dignity, freedom, justice and prosperity.

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457 Article 18 of the Vienna Declaration, World Conference on Human Rights.
458 Vienna Declaration and Programme for Action, adopted on 25th June, 1993
459 Para 1697 Mexico Conference
Copenhagen Conference- 1980

The second conference on women convened in Copenhagen in 1980. It added sub themes like ‘Education, Employment and Health.’

Nairobi Conference- 1985

The third conference was held in Nairobi in 1985 to review and appraise achievements of the United Nations Decade for women; Equality, Development and Peace 1976-1985. In continuation of the UN Declaration of 1975 the document released on this occasion recommended efforts towards empowerment of women. In this document, the question of women’s political participation was highlighted and it was recommended that 35% of the total seats should be reserved for women. It was also recommended that some posts should be reserved for women at the block and village level bureaucracy. On the economic front a number of income generating schemes were introduced for women. The prospective strategies of the third world conference on women in Nairobi stipulated that it is necessary to recognize that women contribute equally with men to the orientation of efforts for development and must benefit from the advantages generated by that development.

Beijing Conference- 460 1995

In its 37th Session the commission urged the fourth world conference on women to consider women’s rights and concerns. This conference extended the agenda for women’s empowerment. In this conference 189 nations including India took part. The Conference recognized twelve areas such as ---women and poverty, economic position, media and rights, environment, girl child, human rights and women, institutional arrangement for women’s development, women in decision –taking process, education and training for job, etc. in order to strengthen women. The Conference unanimously passed a resolution on ‘gender equality.’ This conference raised the issue of sexual harassment of women at the workplace and

460 Conference was held in Beijing on September 4-5, 1995 in China
recommended inter alia to formulate and operationalise a national policy of women to set up a commission for women’s rights and to institutionalize a national level mechanism to monitor the implementation thereof. As early as 1993 at the International Labour Organisation Seminar held in Manila, it was recognized that sexual harassment of women at the workplace was a form of gender discrimination against women. In the Platform for Action, the core document of the Beijing Conference, Governments declared that violence against women constitutes a violation of basic human rights and is an obstacle to the achievements of the objectives of equality, development and peace. This conference was held to review and appraise the advancement of women since 1985 in terms of the objectives of the Nairobi Forward Looking Strategies for the Advancement of Women to the year 2000 and to adopt a platform for action concentrating on some of the key issues identified as fundamental obstacles to the advancement of a majority of women in the world. This conference also raised the issue of sexual harassment of women at the workplace and recommended interalia to formulate and operationalise a national policy on women, to set up a commission for women’s right and to institutionalize a national level mechanism to monitor the implementation thereof. Members of the United Nations reaffirmed their commitment of these principles. They drew attention to gender dimension of trade and committed to seek to ensure that national policies related to international and regional trade agreements do not have an adverse impact in women’s new and traditional economic activities. The Beijing Declaration on Women has stated that women have the right to enjoyment of the highest standard of physical and mental health. Women’s health means their emotional, social and physical well-being which is determined by the social, political and economic context of their lives. This conference set up specific goals and time tables to evaluate the progress of government on issues like elimination of laws which discriminate against women. It was concluded that future well being of the women of the world would depend on the adjustment of the status of women.

461 (Strategic objective F.1 .165 (K))
The General Assembly established International Research and Training Institute for the Advancement of Women (INSTRAW) to carry out research, training and international activities worldwide to promote women as key agents of developments.

The United Nations Development Fund for Women (UNIFEM)

It was a fund for working towards gender equality and gender justice and empowerment of women, established on July 1, 1985. It was created to change the vastly unequal situation of women in social, political and economic relations. The UNIFEM has two key mandates. The first is to serve as a catalyst to ensure the involvement of women in mainstream development activities at national, regional and international levels. The second is to support innovative and experimental activities, which benefit women and are in line with national and regional priorities. In the early 1970, efforts to end discrimination against women and to ensure their equal participation in society provided the impetus for most initiatives taken. The purpose of this fund is identification and study of emerging issues relating to women, more particularly the issue of violence against women and assistance to refugee women. It was to establish mechanism and other forums to enable women entrepreneurs and women workers to play a part in the formulation of policies and programmes being developed by financial ministers and institutions. The World Bank has concluded that greater gender equality and a less rigid division of labour promotes growth by raising the total level of productive capital in the society and by specifically increasing female production capital.

International Women’s Decade (1975—1985)

This decade was internationally dedicated to the cause of women so that they could enjoy equal rights with men and would no longer remain the powerless,
weak, dependent victims of atrocities. Recognizing the equality of men and women in its preamble, it proclaims 'Peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom.'

**International Decade of Poverty Eradication (1997-2006)**

This was declared by the United Nations in 1995 to urge governments and organizations to pursue the implementation of major United Nations Conferences relating to the eradication of poverty.

In January 2002 in the 11th SAARC (South Asian Association for Regional Cooperation) Summit, the south Asian countries adopted the SAARC Convention on Prevention and Combating Trafficking for Prostitution.

**Special Session of the United Nations General Assembly**

This was convened in the year 2000 in New York to assess the progress of the programme held in the direction of establishing gender equality. The topic of the conference was 'Women 2000: Development and Peace for the 21st Century.' The basic purpose of the conference was to convince the member nations regarding the need for empowering women and to take appropriate steps in that direction.

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462 Objectives of the Decade, Times of India, Mumbai, May 7, 1985, P.3
World Health Organisation

The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition according to the preamble to the Constitution of the World Health Organisation which was adopted two years before the Universal Declaration of Human Rights was made.463

Sexual health represents a new thematic area of work for the Department of Reproductive Health and Research. Sexual rights hold human rights that are already accepted in national laws, international human rights documents and other consensus statements. They include the right of all persons, free of coercion, discrimination and violence, to: the highest attainable standard of sexual health, including access to sexual and reproductive health care services; seek, receive and impart information related to sexuality; sexuality education; respect for bodily integrity; choose their partner; decide to be sexually active or not; consensual sexual relations; consensual marriage; decide whether or not and when, to have children; and pursue a satisfying, safe and pleasurable sexual life.464

Effect of globalisation on the rights of women

The colonization of the world by the European powers was the first step of globalization. The second step was with the universalisation of production and consumption patterns of Northern industrialised countries throughout the world. The third step was the introduction of trade treaties like GATT (General Agreement on Trade and Tariff) and establishment of WTO (World Trade Organisation). The Uruguay Round of trade negotiations culminated in the establishment of World Trade Organisation. The Marrakesh Declaration of April 15, 1994 affirms that WTO brings in an era of global economic co-operation and

463 United Nations Action P.139 Para 1202
464 Rahul Rai, Globalisation and Human Rights, Author Press, 2006, Delhi, 2006, P.120
brings in fairer and transparent multinational trading system for the benefit of the people. Men are affected differently than women by trade policies. Trade liberalization has negative impacts on women as producers and consumers especially in the sectors related to food, clothing and water.

Violence and discrimination against women are global social epidemics, notwithstanding the very real progress of the international women's human rights movement in identifying, raising awareness about and challenging women's human rights violations. While there is more widespread involvement for universal respect and observance of human rights, gross violation of internationally recognized norms continue in almost all parts of the world. The overall situation has been characterized by large scale infringements of civil and political rights, economic, social and cultural rights. The rights of life, to an adequate standard of living, to freedom of expression, to protection from torture and inhuman treatment, arbitrary arrest and many of the common standards of achievements for all people and all nations are yet to be actualized.

The poor women of developing countries feel the burden of these economic globalization policies the most. They have no understanding and knowledge about World Trade Organisation. The wealth and wage gap between the rich and poor nations and also between the people in the same countries has increased disproportionately. Consumption is also glaringly unequal with 20% of the world's people in rich countries accounting for 86% of the world's consumption, while the poorest 20% consume 1.3%. Key development decisions are made regarding trade and investment by men within International institutions. The impact and implications of these decisions on women are not considered. The Asia Pacific Economic Co-operation Forum has recognized the important role of women in economic development. It established a Gender Focal Point Network as a mechanism to directly involve its substantive working groups and committees with gender experts from women's affairs ministers and to provide training on gender issues.

Women have entered the workforce in large numbers in countries that have embraced liberal economic policies. One United Nations survey concludes that 'it is by now considered a stylized fact that industrialisation in the context of globalisation is as much female-led as it is export led'. The highest absorption of women has been witnessed in the export-oriented industrial sector. This is especially the case in export processing zones, (EPZs) and Special Economic Zones (SEZs), and in those labour-intensive industries that have relocated to developing countries in search of cheap labour. Investors have demonstrated a preference for women in the soft industries such as apparel, shoe- and toy-making, data-processing and semi-conductor assembling industries that require unskilled to semi-skilled labour. Such industries are also labour intensive, service oriented and poorly paid. Women in the agricultural sector have also been adversely affected by the promotion of export-oriented economic policies and trade liberalization and activities in agriculture-related industries. Emphasis on export crops has displaced women workers in certain countries from permanent agricultural employment to seasonal employment.

The challenge is to bring together the recognition of the variety of women's experiences and basic skills with the need to find a common basis for women's international networking. The international movement for women's human rights has consciously sought to respond to these challenges.

**Human rights of women: Indian Scenario**

Mexico Plan of Action (1975), the Nairobi Forward Looking Strategies (1985), the Beijing Declaration as well as the Platform for Action (1995) and the Outcome Document adopted by the United Nations General Assembly Session on Gender Equality and Development & Peace for the 21st century, titled "Further actions and initiatives to implement the Beijing Declaration and the Platform for
Action" have been endorsed by India for appropriate follow up. On the basis of the proceedings of the World Conference, Government of India drew up various strategies for women's development. India formulated the concept of human rights during the year 1946. The Indian Constitution included the justiciable human rights in Part III of the Constitution and non-justiciable, social and economic rights in Part IV as Directive principles of State Policy. The Constitution of India directs that the International Charter should be interpreted in the same manner as an Act of the Parliament. The Government declared the year 2001 as the year of women's empowerment. The national document prepared by the Indian Government highlighted the importance of strategies which are mentioned below:- 1) obtaining greater political participation of women--- The document recommended that 33% of the seats should be reserved for women in order to get the effective participation of women in politics, 2) Income generating schemes for women--- Provision was to be made for in all women in rural developmental programmes like Integrated Rural Development Programme, Jawahar Rozgar Yojana, training of Rural Youth and Self Employment, enabling a certain proportion of women to become their beneficiaries, Increasing Female Literacy Level. It was hoped that by increasing the level of education amongst women they would by able to be self reliant.

The Protection of Human Rights Act, 1993 provided for the constitution of National Human Rights Commission and State Human Rights Commission and Human Rights Courts. The National Human Rights Commission of India is one of the most effective rights Commissions in the world.

In India, the Protection of Human Rights Act, 1993 defines Human Rights as, 'the rights relating to liberty, equality and dignity of the individual guaranteed by the Indian Constitution as embodied in the fundamental rights and the International Covenants'. A comparison of the Universal Declaration of Human

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467 Article 367(1) Indian Constitution
Rights and Fundamental Rights enunciated in Part III of the Constitution reveals that there are many similarities in them in content. Human rights of women have been protected under various enactments passed from time to time. Maternity Benefit Act, 1961, Equal Remuneration Act, 1976, Commission of Sati (Prevention) Act, 1987, Immoral Traffic (Prevention) Act, 1956, Indecent Representation of Women (Prohibition ) Act, 1986, Pre-Natal Diagnostic Techniques ( Regulation and Prevention of Misuse ) Act, 1994, and different provisions in personal laws, and in Hindu Succession Act, 1956 are some of the enactments passed to accord and protect the human rights of women. Human rights commission on state level as well as national level are constituted. National Human Rights Commission of India has established its credentials as a statutory independent body.

Article 253 of the Indian Constitution empowers the Union to legislate with respect to its treaty obligation without reference to: being bound by the scheme of distribution of legislative powers under the constitution. Article 253 of the Constitution provides --'Parliament has power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or Convention with any other country or any decision made at any international conference, association or other body.' It was soon realized that unless social, economic and cultural rights are made effective, civil and political rights would have no meaning for the under privileged. This was brought into focus by the pressure generated by Third World countries which began to play an active role in the United Nations. The creation of the Commission on the status of women was the first step towards the direction to high light the women's question which the United Nations had initiated. Article 51(c) of the Constitution specifically mentions 'International law' and treaty obligation. Many of the provisions of the Indian Constitution correspond to the provisions of the ICESCR. For instance, Article 43 of the Constitution provides that the state shall endeavor to secure, by suitable legislation or economic organization or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work

185
ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities, and in particular the State shall endeavor to promote cottage industries on an individual or cooperative basis in rural areas. This corresponds more or less to articles 11 and 15 of the ICESCR. The rights envisaged in the Covenant on Economic, Social and Political rights are reflected in part IV of the Constitution.

However, some of the ICESCR rights, for instance, the right to health (art. 12), have been interpreted by the Indian Supreme Court to form part of the right to life under article 21 of the Constitution, thus making it directly enforceable and justiciable. As a party to the ICESCR, the Indian legislature has enacted laws giving effect to some of its treaty obligations and these laws are in turn enforceable in and by the courts. The requirement that the State shall endeavour to provide, within a period of ten years from the commencement of this Constitution free and compulsory education for all children until they complete the age of fourteen years.468 This corresponds more or less to articles 11 and 15 of the ICESCR. As a party to the ICESCR, the Indian legislature has enacted laws giving effect to some of its treaty obligations and these laws are in turn enforceable. The judiciary has endeavoured to give effect to the various rights of women enumerated in the different conventions. The Supreme Court has aptly remarked in the case of Unni Krishnan, J.P. v. State of Andhra Pradesh,469 that if endeavor has not been made till now to make Article 45 reverberate with life and articulate with meaning, the court should take the initiative and step in and to make the State obligated to ensure a right to free education for every child upto the age of 14 years. Article 45 of Directive principles corresponds to article 13(1) of the ICESCR.

The record of Indian Judiciary in performing its task in relation to human rights has by and large been laudatory except on few occasions.470 The Supreme Court

468 86th Amendment Act, 2002 to the Constitution of India
469 (1993)1 SCC 645
has observed in *Chairman, Railway Board v. Mrs. Chandrima Das*,\(^{471}\), "*The International Covenants and Declaration as adopted by the United Nation have to be expected by all signatory States and the meaning given to the words in those Declaration and Covenants have to be such as would help in effective implementation of those rights.*" Any International Convention not consistent with the fundamental rights and in harmony with its spirit must be read into these provisions to enlarge the meaning and content thereof, to promote the object of Constitutional Guarantee. This is implicit from Article 15(c), Article 253 read with entry 14 of the Union list in 7th schedule of the Constitution\(^{472}\). The Supreme Court imposes a constitutional obligation to protect the fundamental rights of the people. Also the doctrine of public interest litigation safeguards the rights of weaker section of the community. The Indian Constitution groups the fundamental rights under several groups. They are: Right to Equality,\(^{473}\) Right to freedom,\(^{474}\) Right against exploitation,\(^{475}\) Cultural and educational rights,\(^{476}\) Right to Constitutional remedies.\(^{477}\) However there are limitations on these fundamental rights for the collective welfare of the Society. For example, the right of assembly exists only if it is held peaceably and without arms. There can be reasonable restrictions on these freedoms in interest of sovereignty and integrity of India, public order and decency and morality etc. Dr. A.S.Anand, C.J. approved in the case of *Apparel Export Promotion Council v. A. K. Chopra*\(^{478}\) the guidelines laid down in *Vishakha v. State of Rajasthan*\(^{479}\) and the case was decided according to the guidelines laid down by Vishakha’s case. The Court recognized her right to fair conditions of work and reflected that women shall not be subjected to sexual harassment at the place of work which may vitiate the working environment.\(^{480}\) Some of the directive principles such as directives for

\(^{471}\) AIR 2000 SC 988, 997  
\(^{472}\) Vishakha and others v. State of Rajasthan, AIR 1997 SC 3011  
\(^{473}\) Article 14-18)  
\(^{474}\) Article 19-22 of the Indian Constitution  
\(^{475}\) Article 23-24 of the Indian Constitution  
\(^{476}\) Article 29-30 of the Indian Constitution  
\(^{477}\) Article 32 of the Indian Constitution  
\(^{478}\) (1991) 1 SCC 759  
\(^{479}\) AIR 1997 SC 3011.  
\(^{480}\) Apparel Export Promotion Council v. A.K.Chopra (1991)1 SCC 759

187
free legal aid, free and compulsory education for children and protection for weaker sections and protection of just and human conditions of work have been enforced by the Indian Courts. The Supreme Court of India had often referred to the International Covenants while dealing with Human Rights violations. For example the Apex Court in Prem Shankar case observed, 'After all, even while discussing the relevant statutory provisions and constitutional requirements, court and counsel must never forget the core principle found in Article 5 of the Universal Declaration of Human Rights: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment'.

Even in Sunil Batra's case the Supreme Court quoted extensively from international instruments dealing with Human Right. There have been many scores of amendments and inclusions of various provisions of law in the statutory enactments to check the victimization of women. The Dowry Prohibition Act was amended twice to make it more punitive and wide in its coverage. The Indian Penal Code, Criminal Procedure Code, and Indian Evidence Act have been amended to deal effectively with problems related to dowry and cruelty to women. Section 375 of Indian Penal Code is also modified to remove its drawbacks. Article 16(1) of the Constitution of India makes provision for equality in the employment to public service, which is also a corresponding provision in Article 25(c) of the Covenant on Civil and Political Rights. The right to freedom of speech and expression is enshrined in the Indian Constitution. Similar right is provided under article 19 (1) & (2) of the Covenant of Civil and Political Rights.

In protecting the Human Rights of women under criminal law the Supreme Court laid down in the case of State of Tamil Nadu v. Kaurppu Swamy and others.
that when prosecuting for the offence of outraging the modesty of a woman, normally the testimony of the victim should be accepted and that such testimony should inspire confidence of the court even if there is absence of any corroboration in the case. Right to privacy is contained in Article 17(1) of the International Covenant on Civil and Political Rights. Article 12(2) of the International Covenant on Civil and Political Rights (ICCPR) enumerates that prostitution and the evil of traffic in human beings for the purposes of prostitution acquired such monstrous proportions that the International Community responded to it by signing various conventions like the International Agreement for the Suppression of White Slave Traffic, International Convention for the Suppression of Traffic – Women and Children and the International Convention for the Suppression of Traffic in Persons and of the Exploitation of Prostitution. Any International Convention not consistent with the fundamental rights and in harmony with its spirit must be read into these provisions to enlarge the meaning and content thereof, to promote the object of constitutional guarantee. The Constitution of India lays down that, ‘Traffic in human beings and beggar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.’ The enactment of Suppression of Traffic in women and Girls Act, 1956 and later the amended Immoral Traffic in Persons Act, 1986 speak of the legislative will.

Right to privacy is contained in Article 17(1) of the International Covenant on Civil and Political Rights. But right to privacy has not been enumerated as Fundamental rights in Part III of the Constitution. ‘Safe and healthy working conditions and the creation of conditions which would assure to all medical service and medical attention in the event of sickness’ are the rights which are stated under Article 7, Para (b) and Article 12, Para 2(d) respectively under the Covenant on Economic, Social and Cultural Rights. Articles 38 and 39 of the Indian Constitution deal with these rights under the Directive Principles, which are not enforceable. But in Regional Director, Employees State Insurance

488 Article 23(1) Indian Constitution
Corporation and another v. Francis De Costa and another\textsuperscript{489} the Supreme Court held that concitant to Article 21 read in the light of Articles 38 and 39, the right to medical and disability benefit to a workman is his/ her fundamental human right.

Inspite of the Universal Declaration of Human Rights, CEDAW and the various other conventions and treaties, women in India are suffering discrimination at home and outside, they are tortured, they are victims of many kinds of violence specially sexual violence. Unlike certain other Economic, Social and Cultural rights, the right to shelter, which forms part of the right to an adequate standard of living under article 11 of the ICESCR, finds no corresponding expression in the Directive Principles of State Policy. The covenants on Human Rights have not been adopted through legislation even by countries who have ratified these Conventions. This problem was brought to light by Supreme Court of India in Jolly George Varghese v. Bank of Cochin\textsuperscript{490} by observing, 'the basic human rights as enshrined in the International Covenants may at best inform judicial institutions and inspire legislative action within member States, but apart from such deep reverence, remedial action at the instance of the aggrieved individual action is beyond the area of judicial authority. The positive commitment of the States Parties ignites legislative action at home but does not automatically make the covenant an enforceable part of the corpus of India.'

In Keshwananda Bharati v. State of Kerala,\textsuperscript{491} the Supreme Court observed, 'Universal Declaration has profound influence towards the commitment of nations to Human Rights and has resulted in many international treaties.' Many rights enshrined in the Covenant on Civil and Political Rights have been recognized specifically in the Indian Constitution as 'Fundamental Rights.' Further, prohibition of forced or compulsory labour provided in the Covenant is laid down under Article 23 of the Constitution. 'Right to life and security of

\textsuperscript{489} SCC 4 (1993) P.287
\textsuperscript{490} AIR 1980 SC 470,474
\textsuperscript{491} AIR 1973 1461
person’ and the right of a person remain ‘equal before the Courts and Tribunals’ are guaranteed respectively under Articles 21 and 14 of the Constitutions. Any one who is arrested shall have a right to be informed at the time of arrest is provided under Article 22. Equality before the law and prohibition of the discrimination on the ground of religion, race, caste and sex, and equality of opportunity in matters of public employment have been guaranteed under the Constitution respectively under Articles 14, 15 and 16(1). Freedom from being prosecuted and punished for the same offence more than once is recognized no person accused of any offence shall be compelled to be a witness against himself is also guaranteed.

To sum up, human rights are equally available to men and women. The UDHR lays down that all human beings are born free and equal in dignity and rights. There are many Conventions specifically for women, the most significant being CEDAW. CEDAW enumerates the legal status of women with a focus on a number of particular rights, including political participation, representation, education, employment, civil and business matters among others. Issues of reproductive rights of women and maternity rights are mentioned throughout the treaty. The creation of the Commission on the status of women was the first step towards reorienting the political discourse to highlight the women’s question that the United Nations initiated.

The rights of life, to an adequate standard of living, to freedom of expression, to protection from torture and inhuman treatment, arbitrary arrest and many of the common standards of achievements for all people and all nations, are as far from realization now, as ever. Abuses against women are persistent and usually tolerated, if not openly condoned. Human Rights issues, which affect women, play an important role in maintaining peace in the society. In the last five decades,

492 Article 20, Para (2) Indian Constitution
493 Article 20, Para (3) Indian Constitution
the world community has recognized that women's human rights are an essential and indivisible part of universal human rights. There is a need to protect and promote the human rights of women. There can be no eternal peace without equality before the law and the full enjoyment of human rights by men and women.

The Mexico Plan of Action (1975), the Nairobi Forward Looking Strategies (1985), the Beijing Declaration as well as the Platform for Action (1995) and the Outcome Document adopted by the United Nations General Assembly Session on Gender Equality and Development & Peace for the 21st century, titled 'Further actions and initiatives to implement the Beijing Declaration and the Platform for Action.' have been endorsed by India for appropriate follow up. The Government of India ratified various International Conventions like CEDAW and has endorsed several declarations. This reflects the political will of the Government of India to grant equal rights to women. But though India signed the Convention Against all Forms of Discrimination Against Women in 1979 and ratified it in 1984, it withheld ratification of certain core provisions. Article 5a and Article 16.1 which were not ratified both dealt with the hierarchy between the right to non-discrimination and the right to freedom of religion. Article 5a obliges the State to take all appropriate measures "to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of inferiority or the superiority of either of the sexes or on stereotyped roles for men and women." Article 16.2 which made child marriage illegal and required official registration of marriage was not ratified. While international conventions are routinely violated, the Government of India's reluctance to make any such commitment left it free to continue its policy of keeping "personal laws" beyond the purview of State laws, and thereby delayed the implementation of a Uniform Civil Code.
CEDAW deals with the legal rights of women including their political rights of participation, representation and employment. It also mentions the reproductive rights of women, maternity rights, and childcare rights. It emphasis the ways in which culture and tradition limit human rights of women. From the years 1945 to 1962 the focus was on securing women’s legal equality. The beginning was with the creation of the Commission of Human Rights and the Commission on the status of women in 1946 and the Universal Declaration of Human Rights in 1948. To actualise the human rights of women and to give them actual shape, a global research was undertaken, which resulted in incorporation of various treaties and conventions for empowerment of women. The four world conferences on women reiterated that women have social, economical and political rights as well as the right to highest standard of physical and mental health. UNIFEM was formed to empower women. Globalisation and trade liberalization has negative impacts on women in India. The states by ratifying the conventions commit themselves to take appropriate measures to end discrimination against women in all its forms and they try to incorporate the principle of equality between men and women by abolishing all discriminatory laws. The Fundamental Rights enshrined in the Indian Constitution are comprehensive and broadly cover the main provisions of UDHR. Due to the process of general change and the Constitutional rights granted to Indian women, their status has undergone a favourable change, specially in the urban areas.

However, it is observed that though India has been the signatory to many such treaties and it has achieved a certain degree of legislative protection for women, but in terms of the international standards a lot is yet to be achieved. While there is increasingly widespread concern for universal respect and observance of human rights, gross violation of internationally recognized standards continue. The overall situation has been characterized by large scale breaches of civil and political rights, as well as economic, social and cultural rights.
In spite of Constitutional, legislative and judicial efforts, there still exists a wide gap between the goals as enunciated in the Constitution and the situational realities of the status of women in India. Gender disparity manifests itself in various forms, the most important being the decline in the female ratio in the population since the last few decades. Women's subjugation to men is pervasive in the political, civil, social, cultural, and economic spheres of many countries. The World Trade Organisation brings unjust system of power. It is not uniform between men and women. It delineates the women from participation in activities over which she had control like water, housing, employment requiring semi-skilled and unskilled workers. Women's expertise and skills in agricultural and biodiversity is rendered useless by trade liberalization. Women are alienated from food due to the corporate control over agriculture through Trade Related Intellectual Property Rights. Women's experience in bio-diversity and agriculture as food producers is undermined by trade liberalization. The poor women of India feel the brunt of globalization policies the most.

Though India is a ratifying party to ICCPR, ICESCR and CEDAW women's rights continue to be marginalized from the normative frame work of the human rights regime. Many important rights like the right to compensation for unlawful arrest and detention (Article 9(5)) of ICCPR, right not to be imprisoned for inability to fulfill a contractual obligation (Article 11 of ICCPR), right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment and some others have not been expressly enumerated as fundamental rights in the Indian Constitution.

Right to privacy is contained in Article 17(1) of the International Covenant on Civil and Political Rights. But right to privacy has not been enumerated as Fundamental rights in Part III of the Constitution. The pace of protection of the right to development in this country is in its evolutionary stage, but in tune with the 41st Session Resolution of the General Assembly of the United Nations Organization. However with changing social and economic conditions various
new problems relating to the advancement of women have come up which were not visualized by the Constitution like the sexual harassment of women at the workplace, indecent representation of women, obscenity regarding women etc.

Though human rights have appeared to be ethically attractive but in practical implementation a lot yet needs to be done. Violence and discrimination against women are pandemics, in spite of the progress of the international women's human rights movement in recognizing, raising awareness about women's human rights violations.