CHAPTER - IV

UNITED NATIONS AND WOMEN’S HUMAN RIGHTS – II

By the mid nineteen-eighties, human rights had come to occupy centre-stage on the international agenda. The international women’s decade (1976-85) was over. Three World Conferences on Women had been held during this period, all of which emphasized upon the need to integrate women into the development process, laid focus upon equality and reiterated that lasting peace was not feasible without women’s involvement in the peace processes. The decade was particularly significant for it saw the enactment of the first ever bill for women’s human rights, Convention on the Elimination of All Forms of Discrimination against Women. However, concerns emerged regarding the integration of women’s human rights into the general human rights agenda. Would all this lead to a ghettoisation of women’s human rights? Are women’s rights distinct from general human rights? Can they be treated as a separate category or as the slogan emerged in 1993, ‘Women’s rights are human rights?’ What was the approach of the United Nations to the issue of women’s human rights during the post 1985 period? This shall be the focus of the current chapter. The chapter is sub-divided into two parts: first the period from 1986 up to the Beijing Conference in 1995 and second, the period from 1996 until the present. In each of these periods, the United Nations came out with various documents pertaining to human rights, either specific rights or rights of various groups of people. These, for the sake of analysis, have been clubbed together thematically and a critical analysis from a gender perspective is presented therein.


The post-1985 world saw dramatic changes in world affairs, all of which impacted the general human rights scenario. The end of the cold war, the break-up of the Soviet Union, the emergence of the European Union, increasing conflict all over the world, all impacted the work of the United Nations in the field of human rights. The period saw a strengthening of United Nations institutions and mechanisms and mainstreaming of women’s issues into the work of all agencies, be it the World Bank or the WHO. The central role of the Commission on the Status of Women in promoting and monitoring the achievement of the Nairobi Forward Looking
Strategies for the Advancement of Women also expanded the role and focus of the Commission. The UN witnessed the continuation of the momentum built up in the previous decade. This was accompanied by a strengthening of the women’s movement which continued highlighting arenas of inequality, critiquing development plans and policies as well as enlarging networks at the grassroots level. The agenda for human rights was redrawn with the numerous world conferences which were organized during this period.

The decade of 1986 to 1995 saw a large number of world conferences on various issues relating to human rights. These included the 1992 United Nations Conference on Environment and Development, the 1993 World Conference on Human Rights, the 1994 International Conference on Population and Development, the 1995 World Summit for Social Development and above all the 1995 Fourth World Conference for Women, giving a much wider perspective to the arena of human rights in general and women’s rights in particular. These Conferences were used by women’s groups and NGOs as platforms to highlight the discrimination, suppression, inequality and male dominance which still prevails in the society. This led to recognition of women’s issues and women shaping the agenda in these Conferences. These Conferences served as major milestones in drawing up and strengthening the human rights agenda. At the same time, the United Nations was seized with a number of issues, which had a significant bearing on the human rights agenda.

Women’s rights, both in terms of proclamation and violations drew the attention of the international community, all of which were focused upon in these Conferences. Here, it is pertinent to note that apart from the fourth World Conference on Women held in Beijing, all the other Conferences were not specifically aimed at or concerned with women’s issues. Yet each of these highlighted women’s issues and concerns, making them substantive milestones in the march of the notion of women’s human rights.

The decade saw the UN becoming more proactive in the fields of human rights of various groups of vulnerable people also, such as children, disabled, indigenous peoples, older persons and so on. Thus, specific Conventions, Declaration or resolutions focusing on the right of these groups emanated from the UN or its agencies.
The World Conference on Human Rights, held in Vienna in June 1993, actually brought women’s human rights from the margins to the centre of the international agenda for human rights. It constituted an important landmark in the integration of women’s rights into the mainstream agenda of human rights, recognizing that “women’s rights are human rights”. It urged the integration of women into the mainstream agenda of the United Nations.\(^1\) It sought to eliminate violence against women in public as well as private life, sexual harassment, exploitation and trafficking in women, gender bias in the administration of justice and the eradication of any conflict between the rights of women and the traditional or customary practices, cultural prejudices and religious extremism. The Vienna Declaration and Programme of Action urged that Governments and the United Nations should ensure equal rights for women and also recognize their participation and importance in development processes and reiterated the importance of achieving the goals for women set forth in the Rio Declaration and Agenda 21. The Conference laid emphasis on the importance of physical and mental health of women throughout their life-span, and reaffirmed women’s right to accessible health care, family planning services and equal access to education at all levels.

Concerns about the ghettoisation of women’s rights were eradicated by the unequivocal declaration of Article 18 of the Vienna Declaration and the Programme of Action, which states that, “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 world conference on human rights urges governments, institutions, inter-governmental and non-governmental organizations to intensify their efforts for the protection and promotion of human rights of women and the girl-child.”\(^2\)


\(^2\) ibid.
It equally recognized the violation of women’s human rights during situations of armed conflict as violative of fundamental human rights and specifically recognized murder, rape, sexual slavery and forced pregnancy as major violations requiring effective response. It urged the eradication of all forms of discrimination against women, both covert and overt. Further, it pointed out strategies to enable women to make more effective use of existing implementation procedures and in adopting new procedures to strengthen implementation for women’s equality and human rights of women.3

Feminist scholars have emphasized the significance of this Conference in the promotion of women’s human rights. Hilary Charlesworth pertinently observes that, “…at the United Nations World Conference on Human Rights in 1993, the international community formally recognized that the human rights system did not adequately respond to women’s lives. The community committed itself to the furtherance of the belief that the human rights of women were “an inalienable, integral and indivisible part of universal human rights.” It also accepted that gender-specific violations of human rights were part of the human rights agenda.”4 Likewise, Charlotte Bunch opines that “The United Nations World Conference on Human Rights in Vienna in 1993 is widely recognized as the tipping point in the effort to gain international acceptance that “Women’s Rights are Human Rights.” The affirmation of women’s rights as full universal rights and the identification of violence against women in particular as a key issue on the global human rights agenda in the Vienna Declaration and Programme of Action (VDPA) initiated a process of integration of women and of gender based perspectives into human rights theory and practice that is on-going.”5 She goes further and enumerates the increasing number of efforts made after this Conference to integrate women’s rights into the general human rights agenda. She asserts that, “After Vienna, a number of gains were made in the effort to establish more systematic standard setting on women’s human rights in general, and

especially around gender based violence. The UN General Assembly adopted the Declaration Against Violence Against Women (DVAW)(sic) in December of 1993, and the Human Rights Commission at its first session after Vienna appointed a Special Rapporteur on Violence Against Women, its Causes and Consequences, which led to an ever expanding rich field of work on human rights standards regarding VAW. In 1994, the UN Commission on Human Rights adopted its first resolution on gender integration, which has evolved into regular sessions on this topic at the Human Rights Council, as well as a wide range of efforts to bring women’s perspectives more fully into work on human rights in many areas. For example, the inclusion of gender based persecution and a gender quota for judges in the founding statute of the International Criminal Court broke new ground in addressing women’s rights from the beginning of the creation of a global human rights body rather than trying to tack it on later. Advances have been made at the regional level also, providing women more tools for seeking realization of their rights legally, such as the Optional Protocol on Women’s Human Rights to the African Charter on Peoples and Human Rights. “The Vienna Conference on Human Rights in 1993 thus, proved the defining moment for the emergence of women’s rights as human rights at the international level.

UN Instruments for Women’s Human Rights: A Gender Analysis

The recognition of ‘women’s rights as human rights’, the defining characteristic of the Vienna Conference was preceded as well as succeeded by numerous efforts at direct promotion of women’s human rights. The decade saw the UN focusing on hitherto neglected areas of women’s human rights, such as violence against women and reproductive rights. The United Nations, till 1993, remained oblivious to the impact of violence against women on women’s lives and rights. None of the three world conferences on women, nor the widely acclaimed International Bill of Rights for Women, CEDAW, mentioned the impact of violence in denial of women’s human rights. The existence of violence against women in various forms was recognized by the Nairobi Forward Looking Strategies, which, nevertheless, failed to take the necessary next step of categorizing violence as a human rights

ibid.
violation. The CEDAW Committee, in 1992, in its General Recommendation 19 declared violence against women to be a violation of women’s human rights.\textsuperscript{7}

In December 1993, the General Assembly adopted the Declaration on Elimination of Violence Against Women through resolution A/RES/48/10. Affirming that violence against women is a violation of the fundamental rights and fundamental freedoms of women, the Declaration expressed concern over the longstanding failure in protection and promotion of those rights and freedoms.\textsuperscript{8}

Violence against women is very comprehensively defined under this Declaration as “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 deprivation of liberty, whether occurring in public or in private life”\textsuperscript{9} and “includes (a) physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence, and violence related to exploitation. (b) Physical, psychological and sexual violence occurring within the General Community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution, and (c) Physical, sexual and psychological violence perpetrated or condoned by the state, whenever it occurs.”\textsuperscript{10} Thus violence is not limited to physical beating but extends to sexual and psychological violence. Secondly, it recognizes that violence can occur within the family, and the general community or be perpetrated or condoned by the State.

Article 3 of the Declaration specifically declares women’s entitlement to enjoy human rights as well as their fundamental freedom from torture in all spheres of life.\textsuperscript{11} Further, it requires states to condemn violence against women and “not to invoke any custom, tradition or religious consideration to avoid their obligations with

\textsuperscript{10} Article 2, ibid.
\textsuperscript{11} Article 3, ibid.
respect to its elimination and are required to develop policy, law and implementation measures for eliminating violence against women.” 12 It imposes a special responsibility on the organization and specialized agencies of the United Nations system to contribute to the recognition and realization of the rights and the principles in the Declaration.13 A few specific rights recognized by this Declaration, include: (a) The right to life; (b) The right to equality; (c) The right to liberty and security of person; (d) The right to equal protection under the law; (e) The right to be free from all forms of discrimination; (f) The right to the highest standard attainable of physical and mental health; (g) The right to just and favourable conditions of work; (h) The right not to be subjected to torture, or other cruel, inhuman or degrading treatment or punishment.

The Declaration recognizes that violence against women is an obstacle to the achievement of equality, development and peace; second, it affirms that violence against women is a cause of denial of human rights and fundamental freedoms to women; thirdly it recognizes the long standing failure to protect and promote women’s rights in the context of violence; fourth, it recognizes that violence against women emanates from historically unequal power relations between men and women and finally violence against women is one of the crucial social mechanisms serving to force women into a subordinate position. It also recognizes the special vulnerability to violence of specific groups of women.

However, the rights specified in the declaration continue to be limited, with no recognition of the fact that violence limits not merely these rights but also other rights of women. The biggest problem is that it is merely a Declaration which is non-binding, not a legally binding convention. It specifically fails to mention a number of instances of VAW which severely restrict their access to human rights. These include the violence suffered by women during armed conflict, such as systematic rape, forced pregnancy, etc. It also fails to take note of female foeticide and infanticide, a violence which takes away the most fundamental of all rights, the right to take birth and the right to life. Forced sterilization, forced abortions and sexual slavery are other types of violence which are left out of DEVAW. Again structural violence such as that of poverty and of economic structures, policies and processes fails to find

12 Article 4, ibid.
13 Article 5, DEVAW, op cit.
mention in this Declaration. Surrogacy is an emerging issue and the violence imposed on surrogate mothers is ignored here.

Following the Vienna Conference on Human Rights and the Declaration on Elimination of Violence Against Women, the UN Commission on Human Rights in Resolution 1944/45, adopted in 1994, decided to appoint a Special Rapporteur on Violence Against Women, including its causes and consequences. The Special Rapporteur is mandated to:

(a) “Seek and receive information on violence against women, its causes and consequences from Governments, treaty bodies, specialized agencies, other special rapporteurs responsible for various human rights questions and intergovernmental and non-governmental organizations, including women's organizations, and to respond effectively to such information;

(b) Recommend measures, ways and means at the local, national, regional and international levels to eliminate all forms of violence against women and its causes, and to remedy its consequences;

(c) Work closely with all special procedures and other human rights mechanisms of the Human Rights Council and with the treaty bodies, taking into account the request of the Council that they regularly and systematically integrate the human rights of women and a gender perspective into their work, and cooperate closely with the Commission on the Status of Women in the discharge of its functions;

(d) Continue to adopt a comprehensive and universal approach to the elimination of violence against women, its causes and consequences, including causes of violence against women relating to the civil, cultural, economic, political and social spheres.”

Thus the Special Rapporteur is entrusted with preparing and presenting reports on various issues relating to VAW, which the various Special Rapporteurs have been doing. Reports have been presented on issues such as rape, domestic violence, sexual harassment, female infanticide, honor killing, dowry violence, female genital mutilation and forced marriage, etc. in which the Special Rapporteurs have presented an indepth analysis of the problems, eliciting appreciation from the General Assembly.

Women’s human rights were also recognized as one of the 12 critical areas of concern at the 1995 World Conference on Women held in Beijing. The Beijing Declaration and POA\textsuperscript{15} reaffirmed the fundamental principles set forth in the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights, that the Human Rights of Women and of the Girl Child are an inalienable, integral and indivisible part of Universal Human Rights. The Platform, as an agenda for Action, sought to promote and protect the Human Rights and the fundamental freedoms for all women throughout their life.\textsuperscript{16} Further, it was confirmed that most of the goals set out in the Nairobi Forward-looking Strategies for the Advancement of Women had not been achieved and ingrained prejudicial attitudes towards women and girls were still major impediments encountered, and despite efforts, barriers still remained.\textsuperscript{17} Significantly, the Beijing Declaration (1995) under Annex I, paragraph 14, too had specifically declared “women’s rights are human rights”.\textsuperscript{18}

The BPFA held human rights to be the birthright of all human beings and their promotion and protection the primary responsibility of Governments. The gap between the existence of rights and their effective enforcement was traced to a lack of commitment on the part of Governments. It recommended that the human rights of women and girls must form an integral part of the action of the United Nations. It also recognized that violence against women both impairs and nullifies their access to human rights and further recognized the intersectionality of race, language, region with gender, etc. in inhibiting women’s access to human rights.

Apart from this one critical area which focused directly on women’s human rights, the other eleven critical areas of concern too focus on different aspects of women’s lives and their rights therein. Thus, it recognized the severe impact and manifestations of poverty on women’s lives, the impact of inequalities in access to education and training, women’s right to health, the impact of armed conflict on


\textsuperscript{17} ibid. p. 33.

women, violence against women, women and the economy, women in power and decision-making, institutional mechanisms for the advancement of women, women and the media, girl child as well as women and the environment.\textsuperscript{19}

The BPFA went further than any previous document in enumerating and elucidating women’s human rights. Yet it also served to contribute to the ghettoisation of women’s rights, merely by the fact of it having been a Conference for women, by women and on women.

Although, widely recognized as one of the widest and broadest assertions of women’s issues, nevertheless, the Beijing Platform for Action too was limited in its understanding of women’s human rights and women’s roles. As Hilary Charlesworth observes, “It is striking that the assertion that "[w]omen's rights are human rights," while contained in the Beijing Declaration, is not reiterated in the more action oriented Platform for Action because of an apparent anxiety of states about recognizing "new" human rights. Thus, the Platform distinguishes between human rights of women (meaning the application of the traditional human rights canon to women), which are universal and women's rights (meaning rights that are of especial relevance to women only), which are not universal. Moreover, the model of women's existence presupposed by the Beijing Platform is quite restricted. Although the Platform for Action gives a nod in the direction of the diversity of women's experiences, it nevertheless presents women in a very limited and encumbered way. The major role for women remains that which is described in the Universal Declaration - wife and mother. As Dianne Otto points out in her analysis of the Beijing negotiations, the only acknowledged development in the role of women is that women are expected to participate in decision-making structures and to play a part in the free market economy. Attempts to raise the diversity of women's identities, most particularly with respect to sexual orientation, were unsuccessful at Beijing.”\textsuperscript{20} Thus, even the Beijing PFA failed to present a new and different analysis of women’s rights and continued with the same male determined approach to the issues of women’s


\textsuperscript{20} Hilary Charlesworth, \textit{op. cit.}
rights and equality. Nevertheless, one could assert that significant achievements were made in the promotion of women’s rights in this period.

*Women’s Human Rights and UN Instruments for Children’s Rights*

One of the most significant and path breaking issues taken up by UN during this period was that of children’s rights. In fact, the **Convention on the Rights of the Child**, adopted in 1989, quickly gained almost universal acceptance. This landmark Convention, which has been regarded as a ground breaking treaty, apart from guaranteeing various rights of the child, specifically obliges the States Parties to “take appropriate measures: (a) To diminish infant and child mortality; (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care; (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution; (d) To ensure appropriate pre-natal and post-natal health care for mothers; (e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents; (f) To develop preventive health care, guidance for parents and family planning education and services.” It further requires States to take effective measures to abolish “traditional practices prejudicial to the health of children.” Of particular relevance to the current study is Article 34 of the Convention, which specifically states that “States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse,” and requires States to take all “appropriate national, bilateral and multilateral measures to prevent: (a) The inducement or coercion of a child to engage in any unlawful sexual activity; (b) The exploitative use of children in prostitution or other unlawful sexual practices; (c) The exploitative use of children in pornographic performances and materials.” It further obliges States to prevent abduction, sale or traffic of children in any form or for any purpose. The rights granted under the 41 Articles of this Convention are for the sake of convenience
grouped under four headings: survival rights, development rights, protection rights and participation rights.\(^\text{21}\)

The rights guaranteed under the Convention include: right to life, to survival and development. The birth of a child must be registered and the child has a right to a name, acquire a nationality, to know his or her parents and to be cared for by them. The child also has the right to his or her identity, the right not to be separated from his or her parents, right to hold his or her views and to express them, right to freedom of expression, as well as to seek information, freedom of thought, conscience and opinion, freedom of association and peaceful assembly, right to not be subject to unlawful or arbitrary interference with his or her privacy, family, home or correspondence. It obliges State parties to respect and ensure the rights set forth in the Convention without discrimination of any kind as well as ensure that the child is protected against discrimination of any kind. The prime consideration in all activities relating to the child, has to be the best interests of the child. It further recognizes the common responsibilities of the parents for the upbringing and development of a child. It obliges the state parties to take appropriate measures to protect the child from all forms of violence. It further recognizes the right of a child to special protection by the state under certain circumstances. It seeks to regulate adoptions by specifying procedures, and also focuses upon children as refugees. Specific mention is made of mentally and physically disabled children as well as of their special needs. It seeks to ensure the right of a child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness.

It further requires State parties to take all appropriate measures to abolish traditional practices prejudicial to the health of children, right to social security, to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development, right to education, with a view to development of a child’s personality, talents, mental and physical abilities, right to rest and leisure, right to be protected from economic exploitation and hazardous work. To this latter end, it requires states to provide a minimum age for entry into employment. It further seeks to protect children from illicit use of narcotics drugs and psychotropic substances as well as from all forms of sexual exploitation and abuse.

It also requires the State to take appropriate measures to prevent trafficking in children and protect them from exploitation, torture or other cruel, inhuman or degrading treatment or punishment. Children below fifteen years of age shall not be engaged in hostilities or recruited into armed forces.

Cynthia P. Cohen alludes to the remarkable characteristics of this Convention, by asserting, “It had the largest number of signatories on the day that it was opened for signature. It went into force more quickly than any other human rights treaty; it reached near-universal ratification by mid-1996; and it protects the entire range of human rights: civil political, economic-social-cultural, and humanitarian. In addition, the Convention's monitoring mechanism gives unique powers to its monitoring body, the Committee on the Rights of the Child. What is even more significant is the protection it seeks to offer to the girl child, which Cynthia P. Cohen believes has been overshadowed by its other characteristics, “Unfortunately, these achievements have tended to overshadow one of the Convention's most remarkable characteristics: its protection of the girl child.”

All these benefits notwithstanding, it remains a gender neutral convention, does not recognize the special situation of girls, particularly in traditional societies. The traditional practice of female genital mutilation is recognized, but the girl child is afflicted by many more ills than that. The continuing practice of female foeticide or infanticide deprives the girl child of the right to take birth, or, if born, of the right to live. Socio-cultural traditions, which regard the girl child as having lesser value than the male child lead to lesser health care, lesser nutrition and overall neglect of the girl child. Result is witnessed in higher infant mortality rates as well as high anaemia rates for girl child. Socio-cultural traditions equally lead to a denial of the right to education for the girl child. The Convention does not mention child marriage, nor the atrocities perpetrated upon girls in the name of culture, witness the concept of breast ironing in some cultures. The issues of the girl child in the developing countries are just not taken into account. Thus, although a landmark Convention, it continues to be limited in its application, particularly where the girl children of traditional societies are concerned.

23 ibid.
A few other questions also come to mind in this respect. The Convention specifically refers to unlawful sexual activity and sexual practices, while at the same time referring to inducement or coercion and exploitative use of children. Under these circumstances, can any sexual activity in which children are induced, coerced or exploited, or for that matter any sexual activity involving children, ever be lawful?

It seeks to reduce infant and child mortality, but fails to note that girl children die not only of diseases, but are actually killed or left to die in a number of countries, it fails to take note of the fact that hundreds of girl children are actually not allowed to take birth. Further it seeks to promote breast-feeding, but fails to take note of the fact that girls are denied adequate breast feeding because of socio-cultural factors. Again while all children may be vulnerable to violence and need to be protected, girls are susceptible to different kinds of violence, witness the small girl in Delhi, who was found with objects inserted into her vagina.

The World Summit for Children held in New York in 1990, took special note of the discrimination faced by girls. The World Declaration of the Survival, Protection and Development of Children adopted at the Summit, called upon nations to strengthen the role of women and also stressed that girls must be given equal treatment and respect from birth, maternal health should be given importance and family planning should be kept on the main agenda.24

Thus, the rights of children had become a priority theme with the United Nations in this decade, yet the rights of the girl child continued to be a neglected area, subsumed within the overall rights of the child.

Women’s Human Rights and UN Instruments for Social Welfare and Development

The decade also saw the United Nations taking up a large number of issues relating to social welfare and development, all of which have a bearing on women’s human rights. A Survey on the Role of Women in Development conducted by the United Nations in 1986 revealed the marginal impact of modernization on women’s productivity in agriculture, as mechanization pushed women out of jobs traditionally done by them.25 It suggested that when women get control over agricultural produce

25 ibid, p. 109.
and its marketing, then they are also seen as co-producers within the household.\textsuperscript{26} The necessity of equal participation and contribution of both men and women in social, economic and political development was also recognized by the United Nations vide resolution 41/108 of 4 December 1986 of the General Assembly.\textsuperscript{27}

\textbf{A Declaration on the Right to Development} was adopted by the United Nations in December 1986. It recognized that “development is a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting there from.”\textsuperscript{28} It implies the right “to participate in, contribute to and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realised.”\textsuperscript{29} It further recognized that creation of conditions ‘propitious’ to the development of mankind can only be possible through “the elimination of the massive and flagrant violations of the human rights of the peoples and individuals affected by situations such as those resulting from colonialism, neocolonialism, apartheid, all forms of racism and racial discrimination, foreign domination and occupation, aggression and threats against national sovereignty, national unity and territorial integrity and threats of war…”\textsuperscript{30} It further confirmed that right to development is an inalienable human right and that equality of opportunity for development is a prerogative of both nations and their citizens. It obliges States to take steps to eliminate violations of human rights of people affected by situations such as “apartheid, racism and racial discrimination, colonialism, foreign domination and occupation, aggression, foreign interference and threats against national sovereignty, national unity and territorial integrity, threats of war and refusal to recognize the fundamental right of peoples to self-determination.”\textsuperscript{31}

Ensuring right to development as well as equality of opportunity for attaining the conditions necessary for this are obligations imposed upon states. Article 8 specifically states that “Effective measures should be undertaken to ensure that

\textsuperscript{26} ibid, p. 109.
\textsuperscript{27} ibid, pp. 109-110.
\textsuperscript{29} ibid.
\textsuperscript{30} ibid.
\textsuperscript{31} ibid.
women have an active role in the development process.” It apparently applies equally to men and women. Yet, as Hilary Charlesworth observes, it is unsatisfactory from a feminist perspective.\textsuperscript{32} It nowhere recognizes discrimination on the basis of sex as detrimental to development, nor does it recognize that the main obstacle in women’s development is the discrimination which they suffer in everyday lives. Hilary Charlesworth opines that “the model of development on which it is built exacerbates the inequality of Third World women.”\textsuperscript{33} Likewise, Upendra Baxi observes, “From a feminist point of view, the Declaration may seem somewhat unsatisfactory. Only Article 6 (1) and Article 8 (1) specifically refer to women. The former reinforces the well-accepted prohibition of discrimination based on sex, and the latter, importantly, prescribes that effective measures should be undertaken to ensure that women have an active role in the development process. It must be conceded that these formulations put together, do not fully respond to the emerging feminist critiques of rights, state and society. The Declaration does not embody many of the implications of the feminist maxim: the personal is political. There is growing feminist consensus over the value of women’s autonomy of the self, the right over their own bodies and reproductive rights. The Declaration, at most addresses issues of non-discrimination; in this it does not move beyond women’s rights (in a man’s world) to the rights of women (in a human world)”.\textsuperscript{34} Being merely a Declaration, it has no binding value. Moreover, Article 5 of the Declaration does not consider discrimination against women to be a part of human rights violations.

The decade also saw the recognition of the close links between women and environment, which had been highlighted during the Nairobi Conference. This was followed by the United Nations Conference on Environment and Development (UNCED), or the Earth Summit held in Rio de Janeiro (Brazil) in 1992. The Report, Our Common Future, compiled by the Independent Commission on Environment and Development (Brundtland Commission) was used as a conceptual and political base for this Earth Summit. What is singularly noteworthy about this Summit is that although environmental issues had been on the UN agenda since the Stockholm Conference held in 1972, wherein preservation of the environment was the

\textsuperscript{32} Hilary Charlesworth, \textit{op. cit.}

\textsuperscript{33} ibid.

main focus, women were neither taken into account, nor were there voices heard in debates on environmental issues such as use of natural resources and environmental protection. The UNCED 1992 recognized the role of women in sustainable development and in environmental protection for the first time.\textsuperscript{35}

Particularly relevant from the women’s perspective is Agenda 21 of the Rio Conference. It sought to implement Nairobi Forward Looking Strategies, ensure women’s effective role in ecosystem management and control of environmental degradation as well as develop strategies to eliminate various obstacles to women’s participation in public life. Agenda 21 provided a set of guidelines for sustainable development, while recognizing the importance of women’s participation for ensuring sustainability. The Chapter entitled “Global Action for Women towards Sustainable and Equitable Development” specifically called for clear government policies and national guidelines, strategies and plans for the achievement of equality in all aspects of society. This included, “the promotion of women’s literacy, education, training, nutrition and health, and their participation in key decision-making positions and in the management of the environment”.\textsuperscript{36}

Apart from environmental rights, another previously invisibilised issue was that of reproductive rights. Reproductive Rights was an issue which had been completely ignored or subsumed within the issue of population control, without realizing the significance of women’s reproductive rights for realization of sustainable development and women’s empowerment. It was only in 1994 at the \textbf{International Conference on Population and Development held in Cairo} from 5-13 September, 1994 that this issue was taken up in earnest and women’s reproductive rights defined. Principle 4 adopted at this Conference emphasized four requirements for advancement of women. These were: gender equality and equity, empowerment of women, the elimination of violence against women, and ensuring women’s ability to control their


own fertility. It further recognized the human rights of women and girl child as being an inalienable, integral and indivisible part of universal human rights.37

The 1994 International Conference on Population and Development (ICPD) in Cairo was a milestone in the history of population and development, as well as in the history of women’s rights. At the Conference, the international community agreed that population is not just about counting people, but about making sure that every person counts.

ICPD delegates reached a consensus that the equality and empowerment of women is a global priority. It approached this not only from the perspective of universal human rights, but also as an essential step towards eradicating poverty and stabilizing population growth. A woman’s ability to access reproductive health and rights is the cornerstone of her empowerment. It is also the key to sustainable development.

The Cairo POA also defined reproductive health for the first time in an international policy document. The definition states that "reproductive health is a state of complete physical, mental, and social well-being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and processes. Reproductive health therefore implies that people are able to have a satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide, if, when and how often to do so."38

The ICPD Programme of Action sought to provide universal access to family planning and sexual and reproductive health services and reproductive rights; deliver gender equality, empowerment of women and equal access to education for girls; address the individual, social and economic impact of urbanization and migration; support sustainable development and address environmental issues associated with population changes.39

38 WHO (2000), Women of South-East Asia: A Health Profile, New Delhi: WHOP Regional Office, p. 75.
The Programme of Action recognizes the importance of empowerment of women in attaining sustainable development. Three mechanisms suggested for this are equal participation and equitable representation of women in the political process and public life, promotion of women’s education, employment and skill development and elimination of discriminatory practices in the workplace, access to credit, ensuring control of property and social security.\textsuperscript{40}

Lori S. Ashford clarifies that, “A central feature of the POA is the recommendation to provide comprehensive reproductive health care, which includes family planning; safe pregnancy and delivery services; abortion where legal; prevention and treatment of sexually transmitted infections (including HIV/AIDS); information and counseling on sexuality; and elimination of harmful practices against women (such as genital cutting and forced marriage).”\textsuperscript{41} She further asserts that, “The POA also says that reproductive health care should enhance individual rights, including the "right to decide freely and responsibly" the number and spacing of one's children, and the right to a "satisfying and safe sex life." This definition goes beyond traditional notions of health care as preventing illness and death, and it promotes a more holistic vision of a healthy individual.”\textsuperscript{42}

Elizabeth Spahn likewise observes that, “The new Cairo consensus weaves together four previously separated strands of international discourses: population stabilization policies, sustainable economic development, environmental impact/consumption concerns, and the education, economic status, and empowerment of women. Each grouping represents major global political movements.’… For the first time, population, poverty, the environment, and women are understood in the U.N. context as interrelated and interdependent.”\textsuperscript{43} She continues that “For the first time in a U.N. conference on population, the role of women is seen as significant for examining childbearing and fertility rates. No longer are women seen as "contraceptive users" or "nonusers." Women are featured as human beings with

\textsuperscript{40}Ibid.
\textsuperscript{42}ibid.
educational, economic, and power needs.”\textsuperscript{44} Thus, women’s rights are recognized as a critical component of population stabilization policies.

Nevertheless, the Cairo consensus did not recognize reproductive freedom as a fundamental right, but did affirm the application of human rights standards to population programmes. It did not create or assert any new rights.\textsuperscript{45}

It was also recognized that securing rights of all was the necessary concomitant for ensuring development and sustainable development. The necessity of securing human rights and in particular women’s human rights for achieving social development was emphasized in the \textbf{Copenhagen Declaration on Social Development 1995} adopted at the World Summit for Social Development held in Copenhagen in 1995. It asserted that, “We share the conviction that social development and social justice are indispensable for the achievement and maintenance of peace and security within and among our nations. In turn, social development and social justice cannot be attained in the absence of peace and security or in the absence of respect for all human rights and fundamental freedoms.”\textsuperscript{46}

Further, it was acknowledged that “social and economic development cannot be secured in a sustainable way without the full participation of women and that equality and equity between women and men is a priority for the international community and as such must be at the centre of economic and social development.”\textsuperscript{47} The State parties, at the same time pledged to “place particular focus on and give priority attention to the fight against the world-wide conditions that pose severe threats to the health, safety, peace, security and well-being of our people. Among these conditions are chronic hunger; malnutrition; illicit drug problems; organized crime; corruption; foreign occupation; armed conflicts; illicit arms trafficking, terrorism, intolerance and incitement to racial, ethnic, religious and other hatreds; xenophobia; and endemic, communicable and chronic diseases.”\textsuperscript{48} The Declaration committed the world governments to, “Promote universal respect for, and observance and protection of, all human rights and fundamental freedoms for all, including the right to development; promote the effective exercise of rights and the discharge of responsibilities at all

\textsuperscript{44} ibid, p.1058.  
\textsuperscript{45} ibid.  
\textsuperscript{46} http://www.un-documents.net/cope-dec.htm, accessed on 18\textsuperscript{th} April, 2014.  
\textsuperscript{47} ibid.  
\textsuperscript{48} ibid.
levels of society; promote equality and equity between women and men; protect the rights of children and youth; and promote the strengthening of social integration and civil society;” as well as to “Recognize that empowering people, particularly women, to strengthen their own capacities is a main objective of development and its principal resource. Empowerment requires the full participation of people in the formulation, implementation and evaluation of decisions determining the functioning and well-being of our societies”.49

It also passed a resolution for promoting full respect for human dignity and recognizing and enhancing the participation and leadership roles of women in political, civil, economic, social and cultural life and in development. For achievement of this aim, it recommended actions to promote changes in attitude, structure, laws and practices in order to eliminate all obstacles to women’s dignity, equality and equity in the family and in society at national levels. It also recommended the promotion of equal participation of urban and rural women in social, economic and political life whereas at international level, among others it recommended actions to promote and protect women’s human rights.50

The Copenhagen Declaration included an acknowledgement by the world leaders that more women lived in poverty than men and that they carry a disproportionate share of the problems related with poverty, social disintegration, unemployment, environment degradation and the effect of war. “The heads of the state and government also agreed to ensure women’s equal right to work; to assure the status, welfare and opportunity of female children, especially in regard to health, nutrition, literacy and education; to promote the equal partnership of women and men in family and community life and society; to eliminate all forms of discrimination, exploitation, abuse and violence against women and female children; and to ensure women’s full and equal enjoyment of all human rights and fundamental freedoms”.51

On the whole, there was an increasing recognition of women’s role in ensuring sustainable development. In this environmental rights and reproductive rights constituted an important pre-requisite to ensure women’s empowerment and participation in the development process.

*Women’s Human Rights and UN Instruments for Administration of Justice*

The major issues which drew the attention of the international community in relation to administration of justice in this decade were the rights of victims of crime and abuse of power as well as that of enforced disappearance. The *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* was adopted by General Assembly vide resolution 40/34 of 29 November 1985. The Declaration defines victims as persons “who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power.” It is noteworthy that the victim may also be in a familial relationship with the perpetrator and the family members or dependants of the direct victim may also be regarded as victims. It applies to all, regardless of parochial considerations and without distinction as to sex. Victims have a right to be treated with compassion and respect for their dignity and are entitled access to the mechanisms of justice and prompt redress. This points to a significant change in the approach of the United Nations, which till now had focused on the public sphere, leaving the private sphere out of its attempts to address human rights violations.

Another major issue taken up by the United Nations was that of enforced disappearance. This was particularly relevant in view of the increasing internal conflict in States and the efforts of the Governments to eliminate all conflict. The issue is not a specific women’s issue, but assumes relevance in the context of the large number of women effected by enforced disappearances, whereby their fathers, husbands, brothers or sons disappeared and in many cases, the sole breadwinners of

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the family disappeared, leaving the women in charge of the household with no particular skills or capability of doing so.

This has been taken up by the women’s movement in various parts of the world, particularly by Mother’s Associations in various countries of the world, for example, Naga Mothers’ Association in Nagaland. The issue was taken up by the United Nations and a Declaration on the Protection of all Persons from Enforced Disappearance was adopted in 1992. Enforced disappearance, according to this Declaration is taken to mean that, “persons are arrested, detained or abducted against their will or otherwise deprived of their liberty by officials of different branches or levels of Government, or by organized groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the Government, followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, which places such persons outside the protection of the law”. It characterizes enforced disappearance as a serious offence and regards it as an offence to human dignity. (Article1). So serious does the Declaration consider this offence that it holds that, “No circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances.” (Article 7)53 Both the issues taken up by the United Nations in relation to administration of justice marked a perceptible shift in the United Nations approach towards women’s rights.

Women’s Human Rights and UN Instruments for Rights of Marginalised Groups of Persons

The efforts of the United Nations for promotion of the rights of various sections of people continued with The Indigenous and Tribal Peoples Convention adopted in 1989, which recognizes the special needs of these peoples and mandates the state parties to protect and promote their economic, social and cultural rights.54

Another marginalized group is that of migrants. Migration, today is an international phenomena with a large number of people migrating from their country of origin. Migration, may be inter-state or intra-state, caused by numerous push and

pull factors. Whatever, the type of migration or its cause, it gives rise to concerns about human rights abuses to which women are particularly vulnerable. An International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families was adopted by General Assembly Resolution 45/158 of 18 December 1990. It seeks to ensure the rights of migrant workers. Significantly, the language used herein is gender neutral, in that both male and female pronouns are used throughout. Addressing the issues of migrants, it obligates member states to grant them the same pay, working hours, safety considerations and other advantages at the workplace which nationals of the State enjoy, going by the principle of equal treatment. Going beyond the workplace, the Convention also attempts to safeguard the rights of the families of the workers, acknowledging their significant contribution to the economy.

The Convention sought to establish certain norms which would govern the treatment of migrant workers and the members of their families, recognizing their vulnerability and that the rights of migrant workers have not been recognized sufficiently. The Convention would apply for the entire duration of migration right from preparation for doing so till the return of the migrant worker. The Convention considers a migrant worker to be a person ‘who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national.’ It does not apply to persons who are sent abroad by international organisations, by the State, students, trainees as well as refugees and stateless persons. They may be documented or non-documented. There shall be no discrimination against migrant workers on the basis of “sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status.”

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56 Article 5

For the purposes of the present Convention, migrant workers and members of their families:
(a) Are considered as documented or in a regular situation if they are authorized to enter, to stay and to engage in a remunerated activity in the State of employment pursuant to the law of that State and to international agreements to which that State is a party;
(b) Are considered as non-documented or in an irregular situation if they do not comply with the conditions provided for in subparagraph (a) of the present article.
Migrant workers and their families, through this Convention, are guaranteed numerous rights including the right to leave any State, including their State of origin, as well as return to the state of origin. The Convention further guarantees the rights of migrants to be protected by law, to not be subjected to torture, cruel, inhuman or degrading treatment or punishment, not to be held in slavery or servitude, or forced to perform compulsory or forced labour, right to freedom of thought, conscience and religion, right to hold opinion, as well as freedom of expression, right not to be subject to arbitrary or unlawful interference with “his or her privacy, family, home, correspondence or other communications, or to unlawful attacks on his or her honour and reputation”, or be arbitrarily deprived of property, right to liberty and security of person, protection against violence, protection from arbitrary arrest, right to equality, right of protection in case of arrest. The Convention specifically provides that migrant workers may not be arrested for failing to fulfill the provisos of a contract and shall not be subject to measures of collective expulsion. Apart from this, the Convention provides the right to consular assistance as well as the right to recognition everywhere as a person before the law. It also specifies terms and conditions of work. It specifically requires the State parties to take all appropriate measures “to ensure that migrant workers are not deprived of any rights derived from this principle by reason of any irregularity in their stay or employment. In particular, employers shall not be relieved of any legal or contractual obligations, nor shall their obligations be limited in any manner by reason of such irregularity.” It further guarantees the right of migrant workers to participate in and join trade unions, participate in their meetings and activities, right to social security, to receive medical care in emergency, rights of children to names, nationality, registration of birth as well as basic right to education, right to preserve their cultural identity, right to transfer their earnings and savings.

Documented migrant workers are also guaranteed additional rights, including right of movement, residence, participating in decision-making in local communities, access to social and health services. The Convention refers to particular categories of migrant workers such as frontier workers, seasonal workers, itinerant workers, project-tied workers, specified-employment workers, self-employed workers.

However, again no new rights are created, merely the rights already enumerated in various other instruments are extended to the migrant workers. It fails
to note the specific concerns of women migrant workers who face some unique challenges. First, women may leave behind their children while migrating in search of employment. Second, when migrating with their families, they face double burden of work - at workplace, plus care-giving activities at home. Furthermore, the work in which they are employed is mostly unskilled, an extension of their traditional roles, where there are long work hours and small pay packets, combined with intense exploitation.

It is noteworthy that the category of domestic worker is also missing from the documented work. A large number of women and girls, specially from the countries of the South go abroad as domestic workers and suffer from numerous problems there including sexual assault. Considering the fact that the Convention mentions a large number of categories of migrant workers, this would tend to leave out the domestic workers from the ambit of this Convention. The Convention seeks to establish a Committee for the Protection of the Rights of all Migrant Workers and their families. However, there is no provision to ensure a gender balance in the representation in this Committee.

The issue of rights of older persons was also taken up by the United Nations in this decade. **The United Nations Principles for Older Persons** were adopted by General Assembly Resolution on 16 December 1991. These principles seek to encourage governments to incorporate various principles into their national programmes. (The words used here are ‘whenever possible’) These include access to adequate food, water, shelter, clothing and health care. They should also have the opportunity to work or to have access to other income generating activities while having the right to determine at what age they would withdraw from the labour force. The Principles seek to ensure access to appropriate educational and training programmes, safe environments, residence in their own home as long as possible, integration into society, participation in policy making that impacts their well-being, form movements and associations, benefit from family and community care and protection, have access to health care to help them to maintain or regain the optimum level of physical, mental and emotional well-being and to prevent or delay the onset of illness, access to social and legal services to enhance their autonomy, protection

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and care, appropriate levels of institutional care providing protection, rehabilitation and social and mental stimulation in a humane and secure environment, enjoy human rights and fundamental freedoms. They further seek to ensure opportunities for the full development of their potential as well as access to the educational, cultural, spiritual and recreational resources of society.

A very comprehensive document, it nevertheless suffers from numerous shortcomings, so far as the gender perspective is concerned. First, it fails to recognise the special situation of older women, particularly widows. In countries like India, widows face a special kind of societal violence directed at them which allows them life without dignity, existence without real living, bereft of all rights, including the right to eat, work, participate in events, in fact participate in the act of living itself. A mere statement of the rights of older persons is not sufficient to take care of the needs of such women. Secondly, they are merely principles which encourage governments to incorporate a few principles in their national programmes, merely recommending that Governments ensure “whenever possible”, which, in effect, gives an unwilling government perfect leeway to get out of implementation of these principles, which it can do in the name of culture, development and so on. They are not a legally binding convention which would have the effect of a treaty upon the concerned states. It forgets to note that society has a debt to pay to older people, which cannot be paid by saying “wherever possible”.

Furthermore, there are more women in the older age groups as compared to men. The World’s Women 2010 report reveals that, “In today’s world, there are 57 million more men than women. This surplus of men is concentrated in the youngest age groups and steadily diminishes until it disappears at about age 50, thereafter becoming a surplus of women owing to their longer life expectancy. A surplus of men characterizes the world’s most populous countries – China and India – hence the large surplus of men worldwide. In most other countries, there are more women than men. The surplus of women in older age groups is significant and is increasing, with
obvious implications for health care and other social needs.” 58 The Principles fail to take note of this fact.

Continuing the trend of promoting the human rights of various cross-sections of peoples, the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted by the General Assembly in 1992, recognizes the rights of these minorities to promote their own language and culture, their religion, and to establish and maintain their own associations and institutions. 59 It is a group right, which does not concede the fact that it is religion and culture which may actually be perpetuating discrimination and subordination of women.

Women’s Human Rights and UN Instruments of Rights of Persons with Disabilities

Another highly marginalized and vulnerable section of people, which drew the attention of the UN in this Decade is people with any kind of disabilities. In 1993, the Standard Rules on the Equalization of Opportunities for Persons with Disabilities was adopted vide General Assembly Resolution 48/96 of 20 December 1993, which stated its basic purpose to be “to ensure that girls, boys, women and men with disabilities, as members of their societies, may exercise the same rights and obligations as others.” 60 Here, it must be mentioned that girls and women with disabilities suffer discrimination in ways in which boys and men do not. However, no legally binding Convention was adopted. These standard rules only focused on equalization of opportunities.

The decade ended on a dualistic note, myriad achievements on the women’s human rights front, alongwith the recognition of women’s rights as human rights, and on the other hand, a continuation of the traditional paternalistic attitude towards women’s rights, with male experiences being the norm, and women’s rights

continuing to be judged and expounded by male standards with male determined language.

Activism by the women’s movement led to the acceptance of the assertion that women’s rights are human rights, thereby leading to the inclusion of women’s rights in the general human rights agenda. As Karen Engle observes, “During this era, liberal inclusionists argued that women should and could be included in international human rights and humanitarian law. Women were as much subjects of international law as were men and thus, if properly applied, international legal doctrine could assimilate women’s concerns.”

By 1995, the world had come a long way from the time when merely declaration of no discrimination on the basis of sex was a great achievement. Amazing gains were generated in this period, primarily through the lobbying of feminist activists, in the commitment of the international community towards achieving women’s human rights. Thus, the formal recognition that women’s rights are human rights made at the Vienna Conference was a beginning in the direction of inclusiveness of women’s human rights. Protection of women’s rights received a shot in the arm with the adoption of the Declaration on the Elimination of Violence Against Women; appointment of a Special Rapporteur on Violence Against Women was a significant milestone in the prevention of violation of women’s human rights, discrimination against and rights of girl child were given special attention in CRC and the Optional Protocol to this significant Convention recognized the issue of sexual assault to which girls are particularly vulnerable. The impact of these changes were felt even in the following years with the mainstreaming of gender into the agenda of various UN agencies such as inclusion of gender concerns in the Security Council’s resolutions on peace and security, building up of a momentum to mainstream women’s human rights concerns and so on. At the same time, women were recognized as partners in the development process, the intersectionality of gender with other factors such as race, disability, age and so on were increasingly recognized and the numerous conventions, resolutions and declarations contained provisions to this effect.

However, the other side of the picture continues to hold true with numerous women’s issues being left out of the debate. Thus, issues such as feminization of poverty, impact of structural adjustment, women’s greater vulnerability to natural disasters and others were totally left out of the analysis. Other significant issues continued to be viewed from a patriarchal lens as Hilary Charlesworth argued, “that even though rape during armed conflict clearly violated international law, international law was concerned about women’s honour (and therefore about the men who were harmed by the attack on this honour) or about genocide, not about women—*qua women*—as subjects of international law. Most structural bias critics agreed with liberal inclusionists that international legal institutions failed to address women’s issues.”

These became the agenda for feminist activists in the next two decades. How did the UN respond to this and what was the approach adopted?

**UN and Women’s Human Rights 1996-to present (Fourth Phase)**

The achievements of the previous decade continued into the next decade. However, by now the adverse impact of structural adjustment and globalization was clearly visible in the increased inequalities thereby impacting human rights in general and women’s human rights in particular. Increasing militarization, conflict and changed political configurations in different parts of the globe cast aspersions on the UN’s ability to deal with such crisis situations. As Devaki Jain observes, “These changes revealed the fragility of the gains made in the arenas of women’s rights and development policies and practice, especially in the period 1985-1995. The UN’s responses to the growing crisis, such as its advocacy of microcredit for poor women and the Millennium Development Goals, have been unable to address the root causes of poverty and its attendant problems.”

The last decade saw manifold achievements in the field of human rights. Yet it is noteworthy that there were only two major Conventions during this period, both of which did not enumerate any new rights, merely applied the already enumerated rights to children and migrants. The various Conferences held in this period did focus on certain specific rights and emphasized the necessity of application

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of these human rights standards to women as well. Nevertheless, the achievements as stated earlier, were primarily in the shape of documents adopted at the end of conferences which did not have a legally binding nature, thus they remained as pious declarations, which States could ignore at will.

Post 1995, the world witnessed a proliferation of state agencies to promote women’s rights as well as a greater commitment to achievement of women’s rights *per se* and integration of these rights into general human rights instruments. The trend of adding women’s rights into the declarations adopted at world conferences continued. At the same time the five year reviews of the various conferences held in the previous decade revealed the loopholes in these documents, both theoretically and substantively. The United Nations went a step further and set up various offices for promotion of women’s human rights, revealing thereby its commitment to the cause. This section, like the previous one is again subdivided on the basis of various issues on which Convention or Declarations stating rights were promulgated.

**UN Instruments for Women’s Human Rights**

By now another realization had dawned on the international community that those persons whose human rights were being violated were often not able to stand up and seek justice for themselves. As Amnesty International’s report testifies, “we have found that those most in need of redress, those whose rights have been most violated, are often those least able to come forward and speak of their suffering and obtain redress. Thus, the role of human rights defenders, including non-governmental organizations (NGOs), in facilitating victims claiming their rights is a crucial one. Women may be reluctant to complain because of fear of reprisal, such as in cases involving violence against women in the family. For example, permitting an organization which provides shelter and legal services to women subjected to violence in the family to raise such claims would minimize the risk of harm to individual women.”

Moreover, states themselves were often unwilling to stand up for women’s rights. This led to the promulgation of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, 1999, which permitted individuals or groups of individuals to submit a communication regarding violation of rights. The Protocol, through Article 2 provides that, “a Communications Procedure which allows either individuals or groups of individuals to submit individual complaints to the Committee. Communications may also be submitted on behalf of individuals or groups of individuals, with their consent, unless it can be shown why that consent was not received.”65 While, this formed the communication procedure of the protocol, it also contains what has been called the enquiry procedure, under which the CEDAW Committee may on its own motion enquire into grave and systematic violations of the Convention by state parties. This could be one of the most effective instruments for strengthening of women’s rights. However, as the name implies, it is Optional and many states have yet to ratify it.

Five years after the Beijing Conference, a Special Session of the UN General Assembly was convened on Women 2000: Gender Equality, Development and Peace for the 21st Century, which also came to be known as Beijing +5. The Beijing +5 Special Session renewed the commitment to gender equality and identified key remaining challenges to the implementation of the platform and drew up new and improved strategies to overcome them. According to Kofi Annan, United Nations Secretary-General, though some gains had been made after the Beijing Declaration yet women continue to bear a disproportionate burden of poverty, illiteracy, ill health, malnutrition and violence and in some societies their basic rights are still denied and despite the very real progress achieved, much remains to be done to achieve equality between women and men.66 The Declaration adopted at this session, emphasized upon the need to have renewed relationship among different stakeholders and the equal and effective participation of women in society. It also laid stress upon redressing inequalities and ensuring equality of rights, responsibilities and opportunities.67

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The Beijing +5 “Outcome Document” stressed that Violence Against Women and Girls is a major obstacle to the achievement of the objectives of gender equality, development and peace. It reiterated that, violence against women both violates and nullifies the enjoyment of human rights of women and their fundamental freedoms. Gender based violence such as battering and other domestic violence, sexual abuse, sexual slavery and exploitation, international trafficking in women and children, forced prostitution and sexual harassment as well as violence against women resulting from cultural prejudice, racism and racial discrimination, pornography, armed conflict, religious extremism and terrorism are incompatible with the dignity and worth of the human person and must be combated and eliminated.68

A Working Group on women’s economic, social and cultural rights adopted the **Montréal Principles** at a meeting from 7–10 December 2002 held in Montréal, Canada. The idea behind adoption of these principles was to ensure the full enjoyment by women of economic, social and cultural rights.69

At its sixtieth session held in 2004, the Commission on Human Rights adopted decision 2004/110, by which it decided to appoint, for a three-year period, a **Special Rapporteur on Trafficking in Persons**, especially women and children to focus on the human rights aspects of the victims of trafficking in persons. In the same decision, the Commission invited the Special Rapporteur to submit annual reports to the Commission together with recommendations on measures required to uphold and protect the human rights of the victims. The Commission requested the Special Rapporteur to respond effectively to reliable information on possible human rights violations with a view to protecting the human rights of actual or potential victims of trafficking and to cooperate fully with other relevant Special Rapporteurs, in particular the Special Rapporteur on Violence Against Women, and to take full account of their contributions to the issue. The Commission also requested the Special Rapporteur to cooperate with relevant United Nations bodies, regional organizations and victims and their representatives.

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In the discharge of his/her mandate, the Special Rapporteur was required to take, “action on violations committed against trafficked persons and on situations in which there has been a failure to protect their human rights;” undertake “country visits in order to study the situation in situ and formulate recommendations to prevent and or combat trafficking and protect the human rights of its victims in specific countries and/or regions”; and “Submit annual reports on the activities of the mandate”. This was a historic step in the protection and promotion of women’s human rights.

On 2 July 2010, the United Nations General Assembly unanimously voted to create a single UN body tasked with accelerating progress in achieving gender equality and women’s empowerment. The creation of UN Women is the result of tireless efforts by UN Member States and women’s rights advocates to have a single global organization that will champion the rights of women and girls. They recognized that making gender equality and the empowerment of women a reality in the lives of women and girls demanded an organization with worldwide reach, sizeable expertise and significant resources. Whether the issue is political leadership, peace building and conflict resolution, protection from violence or access to land, credit and decent jobs, UN Women provides a platform for activists to come together as leaders, advocates and agents of change. UN Women focuses on five priority areas: Increasing women’s leadership and participation; Ending violence against women and girls; Engaging women in all aspects of peace and security processes; Enhancing women’s economic empowerment; Making gender equality central to national development planning and budgeting.

Although there is a large proportion of women in prison, it was only in 2010 that the United Nations awoke to the fact that they may require some special measures in order to ensure equity and non discrimination. United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), 2010, recognized that women prisoners are one of the vulnerable groups that have specific needs and requirements, and that the number of female prisoners has greatly increased over the years. At the same time, it

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recognised the impossibility of universal application of the rules in view of the variety of legal, social, economic and geographical conditions across the world, and so recommended that these rules should serve to “stimulate a constant endeavour to overcome practical difficulties in their application, in the knowledge that they represent, as a whole, global aspirations amenable to the common goal of improving outcomes for women prisoners, their children and their communities.” These rules further sought to encourage member states to adopt laws which allowed alternatives to imprisonment as well as to take into consideration the specific needs and realities of women prisoners. They further require member states to maintain specific data on women in prison and women offenders, while recommending that non-custodial measures should be preferred for pregnant women or a child’s sole caretaker.

The rules recognize that women prisoners have distinctive needs and that providing for these distinctive needs cannot be regarded as discriminatory. They further seek to provide facilities to women prisoners to have access to their relatives, right to legal aid as well as make provisions for their children. It provides for allocating a prison close to their home in order to provide for their caretaking responsibility. These rules also seek to look into issues of personal hygiene and require the provisions of water and sanitary towels for the women. They also provide for medical screening on entry for STDs, HIV, mental trauma or other problems, while at the same time guaranteeing women prisoners a right not to share their medical history or even the right not to undergo screening for reproductive history. Rule 10 provides for gender specific health care facilities as well as for “individualized, gender-sensitive, trauma-informed and comprehensive mental health care and rehabilitation programmes” to be made available for women prisoners with mental health-care needs in prison or in non-custodial settings.

The other provisions include: HIV prevention as well as prevention of substance abuse, suicide and self harm. Searches can be conducted only by women staff. Alternative screening methods to replace strip searching are also suggested. The rules make special provisions for pregnant women, lactating mothers as well as those with children. In the first place, these women are not to be punished by close confinement, or disciplinary segregation. Secondly, disciplinary sanctions should not include a prohibition of family contact and third, no instrument of restraint can be used on women during labour, during birth and immediately after birth.
The Rules also provide for immediate inquiry into complaints of abuse and encourage contact with outside world and for capacity building training for prison staff in women’s prisons. Juvenile female prisoners find special mention in these rules.

Around this time, the United Nations also focused on reviewing of existing gender indicators and coming out with new indicators, particularly on violence against women. In this context, the United Nations Economic and Social Council presented a report of the Secretary-General on gender statistics on 19 December 2012. The report seeks to provide a summary of activities undertaken by United Nations Statistics Division, Expert Groups under the name of Global Gender Statistics Programmes. It includes review of existing gender statistics and new guidelines to produce statistical indicators on violence against women and new data to initiate measures for gender equality.

A Resolution adopted by the General Assembly on 20th December 2012 (A/RES/67/144) focused upon intensification of efforts to eliminate all forms of violence against women. The General Assembly expressed deep concern about the issue and reiterated the need to intensify efforts to eliminate the problem. It once again stressed that, “violence against women and girls is rooted in historical and structural inequality in power relations between men and women and that all forms of violence against women seriously violate and impair or nullify the enjoyment by women and girls of all human rights and fundamental freedoms and constitute a major impediment to the ability of women to make use of their capabilities.” It further recognized poverty, lack of empowerment and marginalization of women to be risk factors precipitating violence as also the fact that violence against women is a major impediment to development and achievement of MDGs. Emphasising a holistic approach to elimination of the problem, the General Assembly stressed that “it is important that States strongly condemn all forms of violence against women and refrain from invoking any custom, tradition or religious consideration to avoid their obligations with respect to its elimination as set out in the Declaration on the Elimination of Violence Against Women.” It emphasized ‘due diligence’ by the State and the need to eliminate impunity. In respect of violence during conflict, it stressed

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the “need for the exclusion of killing and maiming of women and girls…and crimes of sexual violence from amnesty provisions in the context of conflict resolution processes…” It also emphasized the need to involve men and boys as well as families and communities in eliminating the problem. It identifies a long list of twenty-seven doable actions on the part of states in order to prevent and punish violence against women.74

On the same day, the General Assembly adopted a Resolution on Trafficking in Women and Girls (A/RES/67/145) (General Assembly had adopted a Global Plan of Action to combat Trafficking in Persons in July 2010 and held an interactive dialogue in April 2012 on the theme, “Fighting Human Trafficking: Partnership and Innovation to end Violence against Women and Girls) It recognized the continued existence of the problem, the excessive vulnerability of women and girls, the lack of gender and age sensitivity in handling the issues, the contribution of globalization to its increase as well as the risks posed by poverty, unemployment, lack of socioeconomic opportunities, gender based violence, discrimination and marginalization, as well as the role of the internet and transnational crime syndicates. It urged member states to take all steps to prevent and punish the crime of trafficking.75

Women’s Rights and the World Conference on Human Rights

The Vienna +20 Conference held on 25th and 26th June 2013 at Vienna on the occasion of the 20th anniversary of the 1993 World Conference on Human Rights reaffirmed that the Vienna Declaration and POA was a landmark document for the promotion and protection of human rights. It recognized the primacy of human rights, including women’s human rights; the indivisibility of civil, cultural, economic, political and social human rights; the universality of all human rights, the realization of human rights as a priority objective of the United Nations and a legal concern of the international community. On this basis, UN High Commissioner for Human Rights and the Office of the High Commissioner for Human Rights was instituted.

The Conference recognized that the realization of women’s human rights and gender equality was the key to the achievement of human rights. However, patriarchy

and capitalism together led to multiple forms of discrimination. Therefore, the Conference asserted that there was a need for the integration of substantive equality approach in law and practice. The states should take all legal, administrative, social and educational steps to curb violence against women and girls. Attention is to be given to women and girls in all situations of vulnerability, particularly in case of gender-based violence.

The Vienna +20 Conference also recognized that the implementation of the Vienna 1993 Programme of Action still falls short of its declared objectives and it does not fully address some of today’s challenges in respecting, protecting and fulfilling human rights. The Conference reaffirmed the principle of non-discrimination and substantive equality on the grounds of race, ethnicity, color, sex, age, language, religion, political or other opinion, national or social origin, property, birth, physical or mental disability, health status (including HIV/AIDS) and civil, political and social status. It also recognized the environmental and ecological extent of human rights in ensuring the sustainability of global ecosystems and the rights of nature, earth and respecting the rights of future generations. It also warned the nations about the challenges of globalization and its growing global disparities and the threat that extreme wealth poses to the right to political participation and democracy and the economic, social and cultural rights.

It recognized that corruption results in a violation of a large range of human rights, and expressed concern over attacks on human rights defenders especially those working for the rights of women, indigenous peoples, peasants, religious and ethnic minorities.

*Women’s Human Rights and UN Instruments Protecting the Rights of the Child*

Children’s rights had attracted attention in the previous decade also and the UN had responded with a full fledged Convention on the Rights of the Child. The trend continued post 1995 with the UN being proactive in the matters of child labour and child sexual abuse, both of which have special ramifications for the rights of the girl child. Notwithstanding the CRC which had almost universal ratification, one major problem which continued to persist was that of child labour. The ILO in 1999 adopted a *Convention on the Worst Forms of Child Labour*, wherein it recognized that “child labour is to a great extent caused by poverty and that the long-term
solution lies in sustained economic growth leading to social progress, in particular poverty alleviation and universal education.”

The definition of child labour, adopted by the Convention, is particularly relevant for the purposes of the present study. Article 3 defines the term worst forms of child labour as: (a) “All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; (b) The use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; (c) The use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; (d) Work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.” Thus child labour includes slavery or similar practices, child prostitution, making children indulge in illicit activities, as well as work likely to endanger the health, safety or morals of children, under this Convention. The Convention recognizes the urgency to eliminate the worst forms of child labour. Child is defined as every person under the age of 18 years. It obliges the state parties to take steps to prevent worst forms of child labour, provide assistance for removal of children from this and for their rehabilitation and social integration, ensure access to free education as well as vocational education and identify and reach out to children at special risk.

Article 7 obliges the states to provide education including vocational education to children at risk and take account of special situation of girls. Although the Convention urges state parties to take account of the special situation of girls, it fails to enumerate this special situation, leaving it to the state parties to have their own interpretations.

Mention of this Convention entered into by the ILO is deemed essential, particularly in view of the large number of girls forced into various forms of labour, primarily due to their gender. Gender discrimination becomes particularly apparent when girl children are denied education, nutrition and health on the basis of their gender and forced to enter into the workplace or even trafficked and sold for purposes such as domestic labour, or even more horrendous for prostitution. A few other

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problems, so far as rights of girl children are concerned, remain. First the definition of child labour fails to recognize domestic work, and also invisibilises the work that girls do within and outside the household. This deprives them of right to education, adequate nutrition as well as overall development. Amnesty International reports that, “Millions of children around the world, mainly girls, are in paid or unpaid domestic work in households other than their own. Of these children around two thirds are estimated to be in unacceptable situations, either because they are below the legal minimum working age, or are working under hazardous conditions or in circumstances that are tantamount to slavery. These children carry out tasks such as cleaning, ironing, cooking, gardening, collecting water, looking after other children and caring for the elderly.”

The Report, The World’s Women 2010 also reveals in a like manner that, “Like their adult counterparts, girls are more likely than boys to perform unpaid work within their own household. In the less developed regions, many young girls aged 5-14 take on a large amount of household chores, including care-giving, cooking and cleaning, and older girls do so to an even greater extent. While boys also do household chores, their participation rate is not as high as that of girls. Moreover, girls generally work longer hours than boys, whether they are engaged in housework only, employment only or both. Long hours of work affect children’s ability to participate fully in education. Analysis shows that school attendance declines as the number of hours spent on household chores increases and declines more steeply for girls than for boys.” Does this work come under the category of endangering health, safety and morals? The issue is debatable and left to the states to decide.

The international community by now also awoke to the vulnerability of certain groups of children as being at greater risk of sexual exploitation and also recognizes the disproportionate representation of girl children among the sexually exploited. Optional Protocol to the Convention on the Rights of the Child (2000) on the sale of children, child prostitution and child pornography recognises the specific vulnerability to and disproportional representation of girl children in sexual violence

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and trafficking and is concerned about the rise in sex tourism. It seeks to adopt a holistic approach towards elimination of this problem, whereby the contributing factors need to be addressed, which are specifically stated as: underdevelopment, poverty, economic disparities, inequitable socio-economic structure, dysfunctioning families, lack of education, urban-rural migration, gender discrimination, irresponsible adult sexual behaviour, harmful traditional practices, armed conflicts and trafficking of children” and stresses upon the need to create public awareness and strengthen global partnerships in this regard. It specifically requires State parties to prohibit the sale of children, child prostitution and child pornography. Sale of children is held to mean: “(a) Sale of children means any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration; (b) Child prostitution means the use of a child in sexual activities for remuneration or any other form of consideration; (c) Child pornography means any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.” It specifies that state must regard as criminal the sexual exploitation of a child for profit, engagement of the child in forced labour, child prostitution as well as child pornography. (Adopted and opened for signature, ratification and accession by General Assembly resolution A/RES/54/263 of 25 May 2000 entered into force on 18 January 2002)  

Another, Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict adopted on the same day, recognizes the harmful effect of armed conflict on children as well as the special needs of children recruited thus. It requires state parties to ensure that persons who have not attained the age of 18 years do not take part in hostilities or are compulsorily recruited into the armed forces.  

The United Nations concern about the rights of children is also reflected in the General Assembly Resolution adopted on December 20, 2012 which focused upon the rights of the child(A/RES/67/152) It states that, “Profoundly concerned also that the

situation of children in many parts of the world remains critical, in an increasingly globalized environment, as a result of the persistence of poverty, social inequality, inadequate social and economic conditions, pandemics, in particular HIV/AIDS, malaria and tuberculosis, non-communicable diseases, lack of access to safe drinking water and sanitation, environmental damage, natural disasters, armed conflict, foreign occupation, displacement, violence, terrorism, abuse, trafficking in children and their organs, all forms of exploitation, commercial sexual exploitation of children, child prostitution, child pornography and child sex tourism, neglect, illiteracy, hunger, intolerance, discrimination, racism, xenophobia, gender inequality, disability and inadequate legal protection, and convinced that urgent and effective national and international action is called for.”

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It showed concern about the impact of poverty and natural disasters upon the rights of children and called for effective implementation of the CRC and its Optional Protocol. It emphasized the principle of non-discrimination in enjoyment of rights by children. It took special note of violence against children and emphasized its elimination. It specifically mentioned the rights of children in difficult circumstances and indigenous children. Significantly, the girl child remains invisible within the general category of child and her special circumstances are again nowhere mentioned.

Women’s Human Rights and UN Instruments for Social Welfare and Development

In the context of social welfare and development, one of the most significant issues to come up on the UN agenda was that of shelter, which was addressed in The United Nations Conference on Human Settlement (Habitat II) held in Istanbul in 1996. The Conference adopted the Istanbul Declaration and Habitat II agenda. It must be recognized that right to housing is a most pertinent right for women, who need adequate space for protection of their privacy. Herein the governments professed a commitment to gender equality and to integrate a gender perspective in human settlements legislation, policies and programmes.

The right to adequate housing is recognized as a universal human right. The right to adequate housing includes promoting healthy living environments, right to safe drinking water and management of waste. The Habitat II agenda focused on the

necessity of efforts to eradicate poverty and discrimination as well as ensure the equal participation of women and men in all spheres of life. As the United Nations itself notes, “the right to housing had been built into several legally binding human rights instruments to ensure the right of all persons to housing, to eliminate racial and gender discrimination in housing and to protect the rights of women,” among others. Habitat II Agenda, 1996 emphatically declared that, “We recognize the particular needs of women, children and youth for safe, healthy and secure living conditions. We shall intensify our efforts to eradicate poverty and discrimination, to promote and protect all human rights and fundamental freedoms for all, and to provide for basic needs, such as education, nutrition and life-span health care services, and, especially, adequate shelter for all. To this end, we commit ourselves to improving the living conditions in human settlements in ways that are consonant with local needs and realities, and we acknowledge the need to address the global, economic, social and environmental trends to ensure the creation of better living environments for all people. We shall also ensure the full and equal participation of all women and men, and the effective participation of youth, in political, economic and social life. We shall promote full accessibility for people with disabilities, as well as gender equality in policies, programmes and projects for shelter and sustainable human settlements development. We make these commitments with particular reference to the more than one billion people living in absolute poverty and to the members of vulnerable and disadvantaged groups identified in the Habitat Agenda.”

Thus, one of the most basic needs of life was addressed. This, as stated earlier, is particularly relevant for women who bear a disproportionate burden of poverty and for whom provisions of shelter with its concomitants of safe drinking water and waste management can make a world of difference between mere animal existence and right to live with dignity.

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A related issue is that of food security. This issue, again a crucial women’s issue, was taken up by the FAO at the World Food Summit held in Rome from 13-17 November 1996. The Rome Declaration on World Food Security and the World Food Summit Plan of Action was adopted at this Summit. The commitment was not merely to ensure freedom from hunger, but also physical and economic access to sufficient, safe and nutritious food for all people and to meet their dietary needs and food preferences which are essential for an active healthy life. The earlier focus at the World Food Conference in 1974 had been to ensure that, “every man, woman and child has the inalienable right to be free from hunger and malnutrition in order to develop their physical and mental faculties.”\textsuperscript{85} It was, thus, recognized that being merely free from hunger and malnutrition is not sufficient and access to, “sufficient, safe and nutritious food” is essential.

Notwithstanding all these advances on the human rights front, lack of gender sensitice language continued to be a persistent flaw in the various declarations and conventions. One pertinent example is the Universal Declaration on the Human Genome and Human Rights adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization at its twenty-ninth session on 11 November 1997; endorsed by General Assembly resolution 53/152 of 9 December 1998. What is particularly significant about this declaration is that it makes repeated references to UNESCO’s Constitution which uses the word ‘men’ as a synonym for humanity. To state it verbatim, it declares, “The General Conference, Recalling that the Preamble of UNESCO’s Constitution refers to "the democratic principles of the dignity, equality and mutual respect of men", rejects any "doctrine of the inequality of men and races", stipulates "that the wide diffusion of culture, and the education of humanity for justice and liberty and peace are indispensable to the dignity of men and constitute a sacred duty which all the nations must fulfill in a spirit of mutual assistance and concern", proclaims that "peace must be founded upon the intellectual and moral solidarity of mankind", and states that the Organization seeks to advance "through the educational and scientific and cultural relations of the peoples of the world, the objectives of international peace and of the common welfare of mankind

for which the United Nations Organization was established and which its Charter proclaims”.

One of the most significant achievements to date in the field of rights came in the year 2000 with the adoption of the Millennium Declaration, whereby the international community sought to tackle global problems through joint action. The Eight Millennium Development Goals, adopted at this Summit, sought to establish time bound targets for achievement by the international community. The eight goals are: eradicating extreme poverty and hunger; achieve universal primary education; promote gender equality and empower women; reduce child mortality; improve maternal health; combat HIV/AIDS, malaria and other diseases; ensure environmental sustainability and develop a global partnership for development. Two of the 8 MDGs specially focus on women, while the others are equally relevant as women’s human rights concerns. However, the target within MDG 3, which focuses on promoting gender equality and empowering women, is merely to eliminate gender disparity in education. Even this cannot be achieved unless various socio-cultural and economic factors are considered and eliminated. The second target of MDG I relates to achieving full and productive work and decent work for all including women. In MDG 3, for achieving universal primary education, again the special barriers faced by girls need to be taken into consideration, while MDG 4 on reducing child mortality fails to take into consideration the higher mortality rates of girls particularly in societies with a high degree of son preference. The target of the fifth MDG on improving maternal health is reducing maternal mortality and achieving universal access to reproductive health. The other MDGs fail to take account of gender concerns. For instance, there is no recognition of the fact that there is increasing feminization of the HIV/AIDS epidemic or that environmental degradation affects women more adversely than men.

The goals are insufficient in achieving women’s human rights as they do not address problems of women’s economic disparity, violence and access to health care. It is also asserted that the targets of some of the MDGs are very narrowly focused and thus incapable of achieving human rights standards. Thus, tackling poverty or gender

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discrimination is not possible without addressing the root causes of these problems. Moreover, these remain merely moral instruments and not legally binding conventions, which can be ignored by states at will.

The fact that poverty has a differential impact on men and women is recognized by a number of studies. UNIFEM’s Progress of the World’s Women Report for 2000 noted that “although many obstacles to women’s employment had crumbled, women in Sub-Saharan Africa and Eastern Europe faced deteriorating economic conditions; many lived in nations facing increased indebtedness, which is often correlated with lower rates of schooling for girls, and household income inequality increased across a wide range of countries in both developed and developing nations. These trends suggest that “poor women have not enjoyed much of the fruits of any progress”.

Devaki Jain observes likewise that there are “higher rates of unemployment for women than for men and a higher proportion of women than men in the informal economy…women spend more time doing unpaid work and less time earning money for their labor than men.” These factors are not addressed in the Millennium Development Goal’s. In fact, as the world comes to the fag end of the period in which the MDGs were supposed to be achieved it is realized that the target for most of the goals and particularly, the targets for women have not been achieved. The international community is now attempting to define an agenda “Beyond 2015”, when the MDG’s will come to an end. Yet the MDGs have their significance in providing a framework and a road map for the achievement of sustainable development. They provide a benchmark for the progressive realization of human rights in general and women’s rights in particular.

The scope of human rights was further widened by the Universal Declaration on Cultural Diversity adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization at its thirty-first session on 2 November 2001, which recognized human right to cultural diversity. Yet, ironically in language it reverts back to the pre-1985 era in that it once again focuses on the “dignity of man”. The Declaration makes two major assertions. First that “No one

88 Devaki Jain, op. cit., p. 136.
89 ibid, p. 136.
may invoke cultural diversity to infringe upon human rights guaranteed by
ternational law, nor to limit their scope” and secondly “Cultural rights are an
integral part of human rights, which are universal, indivisible and interdependent.”
Here it is essential to remember that the greatest threat to and justification given for
denial of women’s rights is ‘culture’.

The issue of sustainable development, itself, was taken up at the **World
Summit on Sustainable Development. Johannesburg Declaration on Sustainable Development**, adopted at the World Summit on Sustainable Development held in Johannesburg, South Africa, from 2-4 September 2002, reaffirmed the commitment to sustainable development.\(^{90}\)

The Declaration recognized that “poverty eradication, changing consumption
and production patterns and protecting and managing the natural resource base for economic and social development are overarching objectives of and essential requirements for sustainable development.” It emphasized the need to “speedily increase access to such basic requirements as clean water, sanitation, adequate shelter, energy, health care, food security and the protection of biodiversity.”

Specifically, it recognized chronic hunger; malnutrition; foreign occupation;
armed conflict; illicit drug problems; organized crime; corruption; natural disasters;
illicit arms trafficking; trafficking in persons; terrorism; intolerance and incitement to racial, ethnic, religious and other hatreds; xenophobia; and endemic, communicable and chronic diseases, in particular HIV/AIDS, malaria and tuberculosis,” as severe threats to sustainable development requiring priority action. At the same time, there was a recognition of the necessity to integrate women's empowerment, emancipation and gender equality in all the activities encompassed within Agenda 21, the Millennium Development Goals and the Plan of Implementation of the Summit. Thus, by now, the realization had dawned that sustainable development is impossible in the absence of women’s empowerment and it was reflected in this document.

Continuing with its attempts at gender mainstreaming, the United Nations in early 2012 adopted **UN-SWAP**, that is the **UN System-wide Action Plan on Gender Equality and the Empowerment of Women**. The aim of this was to implement the

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gender equality policy of the UN Chief Executives Board. It assigns common performance standards for the gender-related work of all UN entities, thereby attempting to ensure coherence and accountability in their work. 15 performance indicators are identified, which include: Policy and plan; Gender responsive performance management; Strategic planning; Monitoring and reporting; Evaluation; Gender responsive auditing; Programme review; Financial resource tracking; Financial resource allocation; Gender architecture; Organizational culture; Assessment; Development; Knowledge generation and communication; and Coherence.  

The United Nations Conference on Sustainable Development in Rio de Janeiro, Brazil, from 20 to 22 June 2012, adopted the Outcome Document entitled, “The Future We Want”. The focus of the Conference was on ensuring the promotion of an economically, socially and environmentally sustainable future for present and future generations. The State parties, while committing themselves to eradicating poverty and hunger, reaffirmed the need to achieve sustainable development through promoting sustained and equitable economic growth and reducing inequalities, raising basic standards of living and promoting sustainable management of natural resources and ecosystem. The importance of freedom, peace and security were highlighted with specific focus on the right to development, to food and gender equality and women’s empowerment. Democracy, rule of law and enabling environment at the national and international levels were held to be preconditions for the achievement of sustainable development. It recognized the need for international cooperation to eliminate the challenges to sustainable development. The significance of participation in decision-making and having a voice was also recognized as being fundamental to sustainable development, which could be possible only “when broad alliance of people, governments, civil society and the private sector, all working together to secure the future which we want for present and future generations.”

On 20th December 2012, the UNGA adopted a Resolution on the right to food. (A/RES/67/174). It reaffirmed that “hunger constitutes an outrage and a violation of human dignity.” It further reaffirmed the right of everyone to have

“access to safe, sufficient and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger, so as to be able to fully develop and maintain his or her physical and mental capacities.” It considered the hunger related deaths of children as intolerable. It asserted that there are about 870 million people worldwide suffering from chronic undernourishment while an additional 1 billion people are seriously malnourished. More significantly it was concerned that “women and girls are disproportionately affected by hunger, food and nutrition insecurity and poverty, in part as a result of gender inequality and discrimination, that in many countries, girls are twice as likely as boys to die from malnutrition and preventable childhood diseases and that it is estimated that almost twice as many women as men suffer from malnutrition.” Specifically emphasizing the right of women to food, it sought to encourage all States to take action to “address gender inequality and discrimination against women, in particular where they contribute to the malnutrition of women and girls, including measures to ensure the full and equal realization of the right to food and ensuring that women have equal access to resources, including income, land and water and their ownership, as well as full and equal access to education, science and technology, to enable them to feed themselves and their families.” Gender mainstreaming was considered as important and it also sought to combat undernutrition in mothers.

In another resolution on “Human Rights and Extreme Poverty (A/REES/67/164, the General Assembly expressed its concern about the extreme poverty prevailing in all countries of the world and also that “gender inequality, violence and discrimination exacerbate extreme poverty, disproportionately impacting women and girls” and reaffirmed that the “existence of widespread poverty inhibits the full and effective enjoyment of human rights” even while stressing that respect for human rights is essential to fight extreme poverty.

It is significant to observe here that the rights mentioned within this section pertain to all people in general and not to women in particular. However, it is guarantee of these very rights which could form the basis for attainment of all other rights by women. Thus shelter, food security, elimination of malnutrition, tackling of issues of poverty and development, lowering maternal mortality rate, improving
access to education, in fact would serve as the foundation on which the entire edifice of women’s rights could be built.

*Women’s Human Rights and UN Instruments for Workers Rights*

Another significant women’s issue taken up in this period is that of domestic workers. Securing the right to work for women is not enough, there is need to ensure that their rights within this work are also secured. Women domestic workers are among the most exploited section of the women workforce and also the most numerous. As the ILO report reveals, “Across the world, domestic work is an important source of employment for adults as well as for young workers above the minimum working age. Recent statistics have confirmed, for example, that more than a quarter (26.6 per cent) of all female wage workers in Latin America and the Caribbean are domestic workers (and 13.6 per cent in Africa). In the Asia Pacific region, more than 20 million people are employed by private households, representing over 3 per cent of all paid employees (80 per cent of whom are women). In addition to the large numbers working within their own countries, some States, such as Indonesia, the Philippines and Sri Lanka, witness the outflow of tens of thousands of female migrant domestic workers abroad each year.”

In this context, the ILO adopted the Domestic Workers Convention (Convention concerning Decent Work for Domestic Workers) in 2011.

The Convention defines domestic work as “work performed in or for a household or households; (b) the term *domestic worker* means any person engaged in domestic work within an employment relationship; (c) a person who performs domestic work only occasionally or sporadically and not on an occupational basis is not a domestic worker. It commits various member states to ensure effective promotion and protection of human rights of all domestic workers.” The rights of domest workers as enumerated in this Convention include: (a) freedom of association and the effective recognition of the right to collective bargaining; (b) the elimination of all forms of forced or compulsory labour; (c) the effective abolition of child labour, and (d) the elimination of discrimination in respect of employment and occupation. It requires the member states to set a minimum age for domestic workers and that work performed by a domestic worker does not deprive them of education. It further seeks

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93 ILO, *op. cit.*
to protect them from violence, ensure fair terms of employment and decent working and living conditions, hours of work, pay, leave, weekly rest, etc. For the first time the significant contribution of domestic workers to the global economy is recognized. However, a gender analysis reveals certain shortcomings. Even while it recognises that domestic workers remain a significant proportion of the workforce and are among the most marginalized, it fails to note that among these women constitute the majority are even more marginalized than the male domestic worker. Thus, the highly feminized work is made gender neutral and there is not even a mention of women as constituting the majority of the workforce, even while numerous reports reveal this to be a fact.

Women’s Human Rights in UN Instruments for Promotion and Protection of Human Rights

The ever expanding horizon of human rights led another issue: who has the responsibility for protection and promotion of human rights? Is only the State responsible or can individuals and civil society also be held responsible? A Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms also known as the Declaration on Human Rights Defenders\(^{94}\), was adopted by General Assembly Resolution 53/144 of 9 December 1998. The Declaration, even while stressing that the prime responsibility and duty to promote and protect human rights and fundamental freedoms lies with the State, recognizes the right and the responsibility of individuals, groups and associations to promote respect for and foster knowledge of human rights and fundamental freedoms at the national and international levels. Article 1 recognises the rights to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels. Article 2 puts the onus on the State for protecting, promoting and implementing human rights. Article 3 recognises domestic law as the juridical framework for implementing human rights. Specific rights are mentioned from Article 5 onwards. Article 5 recognises the right to meet or assemble peacefully; To form, join and participate in non-governmental organizations, associations or groups; To communicate with non-governmental or intergovernmental

organizations. Article 6 provides that: Everyone has the right, individually and in association with others: (a) To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems; (b) As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others view, information and knowledge on all human rights and fundamental freedoms; (c) To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters. The rights to develop and discuss new human rights ideas and principles and to advocate their acceptance is ensured by Article 7. Article 8 ensures rights of political participation, while Article 9 ensures rights to remedies and implementation of human rights.

Article 10 recommends that “no one shall participate, by act or by failure to act where required, in violating human rights and fundamental freedoms and no one shall be subjected to punishment or adverse action of any kind for refusing to do so.” Article 11 recognizes the right to freedom of occupation or profession. The Declaration, through Article 12, recognizes the right to participate in peaceful activities against violations of human rights and fundamental freedoms. It also recognizes the right to solicit, receive and utilize resources for the purpose of promoting human rights (Article 13). Articles 14 and 15 put responsibility on the State to promote and protect rights, Article 16 recognizes the significance of the role of individuals, NGOs and relevant institutions in creating awareness. Article 18 recognizes the duties of a person towards the community. Prior to this, the onus was on the State to protect and promote human rights. Herein the rights and responsibilities of individuals too were recognized. However, a few major problems emerges here. The Declaration, for one thing is merely a declaration, thus not having a binding effect. Secondly, it does not look into the problems faced by individuals when they attempt to secure human rights of others, witness the Bhanwari Devi Rape case in Rajasthan in India. This is particularly true for women, who may be subjected to numerous violations of their own rights when they attempt to speak up for others.

95 http://www.ohchr.org/EN/ProfessionalInterest/Pages/RightAndResponsibility.aspx accessed on 19th June 2014.
The significance of the Declaration is enormous. First, it is addressed not merely to the state, or to human rights defenders, but to everyone. Secondly, although by itself not legally binding, it contains rights that have been enshrined in binding instruments. Thirdly, having been adopted by the General Assembly by consensus, it represents a commitment by States towards its implementation. Fourthly, although no new rights are articulated by the Declaration, yet the existing ones are reiterated in a more easily applicable way.

Women’s Human Rights and UN Instruments for Administration of Justice

The **Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment** adopted in 2002\(^\text{96}\) seeks to establish a system whereby regular visits are made by independent international and national bodies to such places where liberty is being deprived and there may be imminent danger of torture, in order to prevent the same. It seeks to establish a Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture. The Protocol defines deprivation of liberty to mean “any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority.” The Protocol also requires State parties to establish national preventive mechanisms. It, moreover seeks to ensure gender balance in the representation in the subcommittee as well as the national preventive mechanisms. Here again is a distinct hesitation in recognition of denial of women’s rights due to torture faced in the private sphere of the family.

**International Convention for the Protection of All Persons from Enforced Disappearance** (2006) takes note of the extreme seriousness of enforced disappearance which it holds to be a crime and even a crime against humanity in certain circumstances. In this context, it holds it to be a right of a person not to be subjected to enforced disappearance. Victims, it asserts have the right to justice, reparation, to know the truth about the circumstances of an enforced disappearance, to know the fate of a disappeared person and the freedom to seek, receive and impart

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\(^{96}\) Adopted on 18 December 2002 at the fifty-seventh session of the General Assembly of the United Nations by resolution A/RES/57/199.
information to this end. Further, a state may not cite any exceptional circumstances to justify enforced disappearance. Enforced disappearance implies the “arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law”. Criminal liability in this regard shall vest in any person who commits, orders, solicits or induces the offence, a superior who is aware about this and consciously disregarded the information and failed to take action. It specifies numerous obligations of state parties.\(^97\) However, it fails to take note of the gender impact of such disappearances.

*Women’s Human Rights and UN Instruments for the Rights of Marginalised Groups of Peoples*

In 2007, the United Nations General Assembly, vide resolution 61/295, adopted the [Declaration on the Rights of Indigenous Peoples](http://www.ohchr.org/en/hrbodies/ced/pages/conventionced.aspx). By this Declaration, the General Assembly affirmed that indigenous peoples are equal to all other people and it respected their individuality because all peoples contribute to the diversity, civilization and culture to constitute common heritage of humankind. It also affirmed that the indigenous people are to be free from any kind of discrimination and also showed concern over the suffering of historic injustice to indigenous people like dispossession of their land, territories and resources. The General Assembly also recognized their inherent rights, which derive from their political, economic and social structure, culture, histories and philosophies, etc.\(^98\) However, the Declaration does not create any new rights, merely confers the existing rights on indigenous peoples. Women find mention in only three articles, viz. Article 21.2 which requires states to take effective measures to “ensure the improvement of indigenous peoples’ economic and social conditions while paying particular attention to ‘the rights and special needs of indigenous elders, women, youth, children and persons with


disabilities’”99; Article 22 which, in clause 1, reiterates “the need to attend to ‘the rights and special needs of indigenous elders, women, youth, children and persons with disabilities’ in implementing the Declaration”100 and in clause 2, calls for states, ‘in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination’;101 and Article 44 which states that the Declaration applies equally to ‘male and female indigenous individuals.’ 102 The rest of the Declaration is gender neutral with no special focus on or recognition of the issues of women.

Women’s Human Rights and Rights of Persons with Disabilities

While, the UN had been seized with the issue of rights of disabled persons in the previous decade, in the post 1995 period, the UN went further and enacted a Convention on the Rights of Persons with Disabilities in 2006.103 A very detailed Convention, covering almost every aspect of the lives of ‘disabled’ persons, the Convention makes special provisions for women and children with disabilities. (Articles 5 and 6). In the Preamble, itself, the Convention recognizes the need for persons with ‘disabilities to be guaranteed their full enjoyment (of rights) without discrimination. It recognizes that “disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others” and emphasizes the need to mainstream disability issues. It emphasizes upon the need to protect the rights of persons with disabilities, recognizing their diversity as well as their significant contributions to their communities. What is most significant is that it recognizes in the

100 ibid.
101 ibid.
102 ibid.
very Preamble that “women and girls with disabilities are often at greater risk, both within and outside the home of violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation” and emphasises the “need to incorporate a gender perspective in all efforts to promote the full enjoyment of human rights and fundamental freedoms by persons with disabilities.” It defines persons with disability as “those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.” (Article 1). Defining discrimination on the basis of disability, it holds such discrimination to be “any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.” (Article 2)

It specifically emphasizes the need for: (a) Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons; (b) Non-discrimination; (c) Full and effective participation and inclusion in society; (d) Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity; (e) Equality of opportunity; (f) Accessibility; (g) Equality between men and women; (h) Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities. (Article 3) To this end, it lays down various obligations on the State parties to ensure the protection and promotion of the human rights of persons with disabilities. (Article 4). Article 5 ensures the rights of equality and non-discrimination, recognizing the need to make special provisions for disabled persons to ensure de facto equality. In Article 6, it recognizes the multiple discriminations suffered by women as a result of disability and obligates the State to take appropriate measures to ensure enjoyment of human rights. Article 7 focuses on children with disabilities. It further obligates the State to take measures for raising awareness about persons with disabilities (Article 8) and further to ensure accessibility to various facilities. (Article 9) The more specific rights guaranteed by this Convention include right to life (Article 10), rights in situations of risk and humanitarian emergencies (Article 11), equal recognition before the law, including right to property (Article 12), access to justice (Article 13), liberty and security of the
person (Article 14), Freedom from torture or cruel, inhuman or degrading treatment or punishment (Article 15), Freedom from exploitation, violence and abuse (Article 16). Other rights include: Protecting the integrity of the person (Article 17), Liberty of movement and nationality (Article 18), Living independently and being included in the community (Article 19), Personal mobility (Article 20), Freedom of expression and opinion, and access to information (Article 21), Respect for privacy (Article 22), Respect for home and the family (Article 23), right to education (Article 24), right to health (Article 25), Habilitation and rehabilitation (Article 26), rights to Work and employment (Article 27), Adequate standard of living and social protection (Article 28), Participation in political and public life (Article 29), Participation in cultural life, recreation, leisure and sport (Article 30). Article 34 provides for a separate Committee on the Rights of Persons with Disabilities. Significantly, it states that “Reservations incompatible with the object and purpose of the present Convention shall not be permitted.” (Article 46)\(^{104}\)

The gender sensitivity is again reflected in the provisions for this right as it obligates the States to “take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation.” It further requires the States Parties to “Provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons, including in the area of sexual and reproductive health and population-based public health programmes”. Unlike ICCPR, which talks of his family, this Convention talks of his or her family, his or her honour and reputation

Nevertheless, it fails to recognize the special needs of women in respect of work and employment. There is no mention of sexual harassment at workplace, although harassment finds a mention. In this, it specifically ensures “access by persons with disabilities, in particular women and girls with disabilities and older persons with disabilities, to social protection programmes and poverty reduction programmes;” Article 16 recognises that violence and abuse have specific gender dimensions, without, however, going into the nature of these or the differential impact of these. Herein, it must also be mentioned that the Convention obligates the State

\(^{104}\) ibid.
parties to collect statistics and data and to disaggregate ‘as appropriate’. In this it fails to realize that the persons in charge of collecting data may not be gender sensitive and so the data collected unless specifically required to be so would in most cases not be gender disaggregated. This, in fact, has been the case in most instances of data collection.

The Optional Protocol to this Convention permits the Committee to receive communications “from or on behalf of individuals or groups of individuals subject to its jurisdiction who claim to be victims of a violation by that State Party of the provisions of the Convention”, with the proviso that all available domestic remedies have been exhausted. 105

Women’s Human Rights and UN Instruments for Rights of Persons Impacted by Conflict

In the previous years, a large number of conventions addressed the issue of conflict and its impact on human rights. Gradually, even the impact on human rights of women was recognized. However, that war impacts women in ways different from men and that women have a major role to play in conflict resolution and peace building was for the first time addressed in the Security Council Resolution 1325 on Women, Peace and Security adopted in 2000. Charlotte Bunch observes that “The first ever Security Council resolution (1325) on women, peace and security was adopted in 2000, followed by further Council measures on violence against women in conflict representing a major breakthrough of women’s issues in new territory. Many advances in human rights over the last two decades reflect expanding gender awareness in areas like sexual violence in conflict, maternal mortality, poverty and housing as well as sexual orientation and gender identity.”106

The significant role of women in the various aspects of conflict prevention, conflict resolution, as well as peace negotiations, peace building and peace keeping is recognized and reaffirmed by this resolution. It equally reaffirms women’s role in providing humanitarian response and in post- conflict reconstruction and stresses the importance of their equal participation and full involvement in all efforts for the

106 Charlotte Bunch, op. cit.
maintenance and promotion of peace and security. It further, urges all actors to increase women’s participation as well as incorporate gender perspectives in the peace and security efforts of the United Nations. Furthermore, it requires all parties to conflict to take special measures to protect women from sexual violence.  

Following this resolution, the Secretary General presented a number of reports on conflicts related sexual violence and a number of other resolutions were passed. Security Council Resolution 1960 passed on 16 December, 2010 established a monitoring, analysis and reporting mechanism on conflict-related sexual violence and also called upon parties to armed conflict to make specific, time bound commitments to prohibit and punish sexual violence. At the same time, the Secretary General was entrusted with the task of monitoring these commitments.

Resolution 2106 of 24th June 2013 focused on accountability of perpetrators of sexual violence in conflicts and stressed women’s political and economic empowerment, while Resolution 2122 addressed the persistent gaps in the implementation of the women, peace and security agenda.  

UN Women has a leading role in supporting the implementation of the plan. Under this plan all UN system organizations will need to adopt policies on gender equality and women’s empowerment, and ensure that corporate strategic planning documents commit to achieving at least one gender equality objective. They must complete their reporting by 2017.

The United Nations General Assembly, vide Resolution A/Res/67/48, on 3rd December 2012, adopted a Resolution on Women, Disarmament, Non-Proliferation and Arms Control. It urges member states and other organisations to “promote equal opportunities for the representation of women in all decision-making processes with regard to matters related to disarmament, non-proliferation and arms control, in particular as it relates to the prevention and reduction of armed violence and armed conflict.” It also calls upon all States “to empower women, including through capacity-building efforts, as appropriate, to participate in the design and implementation of disarmament, non-proliferation and arms control efforts.”

In sum, one notices a visible change in the approach of the United Nations towards women’s human rights. From a ghettoisation of women’s human rights, it moved to the recognition of women’s rights as human rights, as also to the incorporation and explicit recognition of women’s rights within the universal human rights instruments. The language gradually turned gender sensitive and women’s issues and concerns were recognized while formulating various instruments of human rights. Noteworthy changes which emerged in this period including recognition of violence against women as a major obstacle in the achievement of women’s human rights as well as appointment of a Special Rapporteur to tackle the same; the Beijing Conference on women as well as the recognition of the rights of women within the rights of various other categories of marginalized persons.

However, numerous problems remain. Women still tend to get invisibilised within general categories, a number of women’s rights have still not been explicitly stated. As Hillary Charlesworth observes, “Radhika Coomaraswamy, the U.N. Special Rapporteur on Violence Against Women, proposes the creation of a "fourth generation" of women's rights." This "fourth generation" of rights includes "new" rights such as the right to sexual autonomy as well as a reinterpretation of the earlier generations of rights in order to respond to women's concerns.”

Moreover, many of women’s human rights concerns such as poverty, food security, shelter, development, etc. are addressed in instruments which lack a binding nature and thus states are free to abide by them or not. States continue to be regarded as the primary violators of human rights, although there is an increasing focus on violation in the private sphere too. It must also be noted that the primary achievements in the field of integrating women’s rights into universal human rights were made in various Conferences and the documents adopted therein. These, it is significant to note, remain mere declarations and are not binding on the governments. They merely serve to concentrate world opinion on a particular issue, but no action can be taken against a government which refuses to observe the conditions laid down in a particular document. Thus, today the international community has come a long way in the achievement of women’s rights as universal human rights, but it still has an equally long path to traverse, before the equality and rights of women become a reality.

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110 Hilary Charlesworth, op. cit.