CHAPTER VI

MAJOR FINDINGS AND CONCLUSION

The concept of human rights denotes that every human being irrespective of any kind of discrimination is entitled to rights that are essential for all round development of his/her life. As human being women cannot be debarred from enjoying these rights. Recognising and establishing those rights for women has become an important area of concern for different sections of society. The present study focuses on the rights of women, protection mechanisms and the role of SCWs to protect and promote women’s rights in three northeastern States viz. Assam, Meghalaya and Tripura.

Chapter I focuses on the concept of human rights, women’s rights and the social setting in which women in India subsist. Human rights refer to certain demands essential for the development of human beings recognised by the State. Issues relating to women are one of the prominent human rights issues for the simple reason that in any kind of violation women suffer either physically or mentally or both, which ultimately leads to the violation of their human rights. The violations take place mainly for the reason that they occupy the marginalised space in society.

Under the patriarchal social system in India women have to suffer male domination and social inequalities in every stage of their life. In fact, this system of dominance and perpetuated inequalities has remained as an unquestioned truth far too long. The idea of equality between the sexes emerged only after India gained independence and adopted the Constitution. The use of phrase ‘irrespective of sex’ and ‘No citizen’ as mentioned in different Articles under the Fundamental Rights Chapter i.e. Chapter III clearly underline the desire of the Government to ensure equality between the sexes both in principle and practice. Notwithstanding this, Article 15 (3) states that ‘Nothing in this article shall prevent the State from making any special provision for women and
children.’ India has enacted various Acts to protect women from any kind of discrimination and violation as also to promote their rights. Beside these it has also emphasised on developing the existing conditions of women by including different developmental programmes for them in different Five Years Plans throughout the years.

Apart from this, being a signatory member to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) the Govt. of India is committed to follow and implement all the provisions enshrined in the CEDAW in actual term. Thus, the enactment of the National Commission for Women Act, 1990 has been an important milestone for the protection and promotion of women’s rights and towards fulfilling its commitment to the CEDAW.

Unlike the Protection of Human Rights Act, 1993 the National Commission for Women Act, 1990 is not an apex Act to constitute State Commissions for Women in different States. To establish State Commission for Women every State has to enact its own laws. Till date, twenty eight States and six Union Territories have established the State Commissions for Women in their respective States.

All the States in Northeast India have established the SCWs. In Assam the Assam State Commission for Women was established in the year 1994; in Meghalaya the Meghalaya State Commission for Women was established in the year 2005 and the Tripura Commission for Women was established in Tripura in 1994.

As stated above the social prejudice has resulted in the dominant-subordinate syndrome in the Indian society with the woman including girl child relegated to the subordinate position. This has resulted in the violation of their rights. In the political front Assam, Meghalaya and Tripura have experienced conflict situation for a long time. Consequently, the cases of violation of women’s rights in this region have escalated. Conflicts in these areas take place between different ethnic groups, between armed forces and armed opposition forces etc. In such situation

110 Govt. of India, Ministry of Law and Justice, “The Constitution of India, Part-III”.
the condition of women become miserable as they become the easy target of both sides of conflict. Under such situation, it is very significant to study the role of ASCW, MSCW and TCW in their respective States, as these are the governmental apex bodies established to protect and promote rights of women.

Chapter II discusses various rights of women that have been developed both at international and national levels. The urge for protecting the rights of women can be traced to the writings of Mary Wollstonecraft, John Stuart Mill and others. In their philosophical writings they argued for the uplift of the status of women by recognising their rights. The establishment of the UN in the year 1945 provided legal recognition to the rights of women. The Charter of the UN on one hand, recognises equal rights of men and women and on the other it proclaims for the promotion and protection of women’s rights. Several instruments have been developed for this purpose in international level such as the Commission on the Status of Women (1946), Universal Declaration of Human Rights (1948), Convention on the Political Rights of Women (1952), Convention on the Nationality of Married Women (1957), Convention on the Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962), Declaration on the Elimination of Discrimination Against Women (1967), Declaration on the Protection of Women and Children in Emergency and Armed Conflict (1974), World Conference of the International Women's Year in Mexico City (1975), United Nations Decade for Women (1976–1985), Convention on the Elimination of All Forms of Discrimination Against Women (1979), Second World Conference on Women, Copenhagen (1980), World Conference to Review and Appraise the Achievements of the United Nations Decade for Women (1985), Fourth World Conference on Women (1995), Review and appraisal of the Beijing Platform for Action: (Beijing +5) (2000).

India, apart from providing Constitutional safeguards to women, has enacted various Acts which are designed to promote, protect the rights of women and to promote awareness regarding women’s rights in society. These are, the Hindu Marriage Act, 1955; the Hindu Adoption and Maintenance Act, 1956; the Hindu Succession Act, 1956; Muslim Law; the Muslim Women (Protection of Rights on
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Divorce) Act, 1986; the Factories Act, 1948; the Maternity Benefit Act, 1961; the Equal Remuneration Act, 1976; the Medical Termination of Pregnancy Act, 1971; the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994; the Immoral Traffic (Prevention) Act, 1956; the Indecent Representation of Women (Prohibition) Act, 1986; the Commission of Sati (Prevention) Act, 1987; the Dowry Prohibition Act, 1961; the Protection of Women from Domestic Violence Act, 2005; the National Commission for Women Act, 1990; the Indian Penal Code, 1860; the Indian Evidence Act, 1872; the Code of Criminal Procedure, 1973 etc. Besides these legal instruments several steps have been taken by the Govt. of India through its Five Years Plans like the establishment of Central Social Welfare Board (CSWB) in the First Five Year Plan and that the benefits of development projects should reach the women in the Eighth Five Year Plan etc.

India enacted the National Commission for Women Act, 1990 and subsequently established the National Commission for Women in 1993 following the enactment. This is the most important step initiated by the Govt. of India with regard to the safeguards of the rights of women.

After the enactment of the National Commission for Women Act, 1990 all the States and Union Territories in India have established State Commissions for Women. In Northeast India all the States have established State Commissions for Women. In Assam, the Assam State Commission for Women; in Meghalaya, the Meghalaya State Commission for Women and in Tripura, the Tripura Commission for Women have been established as per the enactment of the Assam State Commission for Women Act, 1994; the Meghalaya State Commission for Women Act, 2005 and the Tripura Commission for Women Act, 1993 respectively.

In the Chapter-III an attempt has been made to stipulate the structure, formation, functions and status of ASCW, MSCW and TCW. Chapter-II of the ASCW Act 1994, MSCW Act 2005 and TCW Act 1993 deals with the structure of the ASCW, MSCW and TCW respectively. The structure of ASCW shows that at
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The ASCW has ten staff members to discharge the administrative functions. In case of the MSCW this number is nine. But due to the lack of sufficient numbers of staff in these Commissions the spirit of mutual help exists among them without limiting oneself to the specific responsibilities. Regarding the number of staff members the TCW is in better position than both ASCW and MSCW; at present it has twenty eight staff members and the division of work is also clear in TCW.

According to the ASCW Act 1994 the ASCW has 14 functions. However, the MSCW Act 2005 and TCW Act 1994 lay down 8 functions each to be performed by the MSCW and TCW respectively.

Chapter IV deals with the role of ASCW, MSCW and TCW. It is found that since its establishment (in 1994) to 31st December 2011 the ASCW has received 1400 cases out of which 631 cases (45.07%) have been disposed. In MSCW since 2005 (year of establishment) to 31st March 2012, 341 cases of violation of rights of women have been registered out of which 192 cases have been disposed off. Since its establishment in the year 1994 to 31st March 2011 the TCW has registered 16419 cases of violation of the rights of women out of which the TCW has disposed 6165 cases. Basically the nature of registered cases in all these Commissions includes kidnapping, rape, dowry, sexual harassment etc. and in Meghalaya, beside the above mentioned problems, majority of the cases registered are for maintenance grant.
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Following the provisions of their respective Acts ASCW, MSCW and TCW have visited numbers of jails, destitute homes, lock-ups etc. where women inmates have been kept. The ASCW, MSCW and TCW regularly organise awareness programmes, public hearings etc. in order to make people aware and more specifically women about their (women’s) rights and protective mechanisms available to them in cases of violation of rights of women.

Further, the ASCW regularly publishes newsletter ‘Sambad Prabahika’, MSCW publishes its own news letter and TCW publishes ‘Jago Nari’.

It is important to note that so far as the finance is concerned there is no guideline for determining the quantum of finance to be released to the Commission nor does the Commission make any demand to the Government. These are given by the State Government annually. A study of the grant received by SCWs shows that there is no fixed criteria on the basis of which the amount is sanctioned. From the analysis it is also seen that both the ASCW and MSCW have successfully utilized the amount sanctioned to them whereas the TCW has failed to do so. But if we look at the average of sanctioned amount and its expenditure (per year) of all these three Commissions we see that the amount that is sanctioned to TCW is much higher than the ASCW and MSCW. There exists a little difference among these Commissions in terms of the average amount of expenditure (per year) made by them.

The ASCW, MSCW and TCW maintain proper accounts but such accounts are audited by the Chartered firms and not by the office of the Accountant General as specified in the Act.

These Commissions are accountable to the Legislature. Accordingly they submit the Annual Reports to the respective Governments which are placed before the State legislatures. Till date the ASCW has placed ten Annual Reports to the Government of Assam; the MSCW has placed four Annual Reports to its State
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Government and the TCW has placed nine Annual Reports to the Government of Tripura.

Chapter V focuses on the interface between NGOs and State Commissions for Women. In analysing the role of SCWs the opinion of NGOs are very much important as they work at the grassroots level. In cases of violation of the rights of women the NGOs of these three States take up protest marches, silent marches through the place, gherao offices of law enforcing agencies, calls for strikes/blockades, etc. The NGOs of Assam, Meghalaya and Tripura are of the opinion that as a result of their protests some of the cases of women’s rights violations have been solved but majority of these cases remain unresolved. Naturally, NGOs of these three States do not hold any positive view regarding the effectiveness of protests in cases of violation of the rights of women.

Majority of the NGOs of Assam, Meghalaya and Tripura approach their respective State Governments for the solution of their problems. In Assam majority of the NGOs viewed that they are satisfied with the response of the Government with regard to the solution of their problems. In Meghalaya too, majority of the NGOs are satisfied. But in Tripura half of the NGOs under study replied that Government response is positive while remaining half replied in negative.

Majority of the NGOs in Assam and Meghalaya are of the view that the ASCW and MSCW respectively have been able to fulfill their objectives either completely or partially whereas in case of Tripura majority of the NGOs view that TCW has not been able to fulfill its objectives. In Assam half of the NGOs under study are of the view that there is political interference from governmental side in the workings of ASCW. Little less than half of the NGOs of Meghalaya are of the opinion that there is political interference in the functioning of MSCW. However, in Tripura bulk of the NGOs view that there is political interference from Government in the workings of TCW. Half of the NGOs of Assam opines that ASCW is defending rights of women well; in Meghalaya all NGOs under study are of the opinion that MSCW is defending the rights of women in a good way.
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But in case of Tripura majority of the NGOs view that the workings of TCW as defender of rights of women is poor. An analysis of the views of NGOs shows that in both Assam and Meghalaya the Commissions are on the way to achieving their objectives whereas Tripura provides an opposite picture. Further the political interference from the Government in Tripura hinders the activities of the Commission as an independent body but in Meghalaya such influence is comparatively less and in case of Assam half of the NGOs feel that there is no political interference whereas the another half has given the opposite view.

Major Findings:

- Conflicts between ethnic groups, armed forces and armed opposition groups and the existing socio-cultural values have made Northeast India a fertile ground for the violation of women’s rights. The enactment of ASCW Act 1994, MSCW Act 2005 and TCW Act 1993 for the establishment of ASCW in 1994, MSCW in 2005 and TCW in 1994 respectively has been a significant step towards protecting the rights of women.

- At present the ASCW has eight members including the Chairperson and Vice Chairperson. Administrative functions of the ASCW have been discharged by ten (10) staff members under the supervision of the Member Secretary. In MSCW there are one Chairperson, one Vice Chairperson and four members. In MSCW nine (9) staff members discharge day to day functions of MSCW under the Secretary. In TCW there are seven members including the Chairperson and the Vice Chairperson. In TCW twenty eight (28) staff members discharge the functions of TCW under the supervision of the Member Secretary. However, in these three Commissions all staff members have either been deputed from other departments under their respective State Governments or appointed on contractual basis.

- The ASCW Act, 1994 and the TCW Act, 1993 state that State Governments shall provide necessary staff to the Commissions for effective functioning. This implies that SCWs of these two States cannot appoint their own staff.
They have to depend on their respective State Governments. However, the MSCW Act, 2005 states that the MSCW can appoint staff other than the Secretary to assist the Commission in its day-to-day function, either through direct recruitment or on deputation with the prior approval of the State Government. But the MSCW has not utilised this power of direct recruitment to meet its need of adequate staff members.

- The ASCW, MSCW and TCW till date do not have their own Member Secretary/Secretary. The present Member Secretary of ASCW is an ACS officer under Govt. of Assam and is presently deputed to ASCW. In MSCW the present Secretary is a Secretary to the Govt. of Meghalaya, Department of Social Welfare and has the additional charge of MSCW. In TCW the present Member Secretary is an Assistant Professor of a Govt. Degree college of the State and is deputed to the TCW.

- State Commissions for Women have been established to protect and promote the rights of women in cases of violation. In this process SCWs of Assam, Meghalaya and Tripura have been actively registering cases. From the study it has been found that the gap between the registered and disposed cases in Assam has been gradually decreasing in the recent years than that of initial years i.e. the percentage of disposing of cases by the Commission is gradually increasing. Unlike the ASCW the gap between registering and disposing of cases in MSCW has been gradually decreasing. The basic causes behind such decrease are the lack of finances and initiative on the part of MSCW. In Tripura, like MSCW, the percentage of disposed cases had been decreasing gradually since its establishment in the year 1994 to 2008-2009. This is mainly because of the fact that there exists lack of interest and willingness on the part of accused to appear before the Commission, when it summons them, for the consideration of their problem. Sometime even after the solution of a particular dispute the Commission has to reopen the cases on the request of the victim as the accused resume their earlier behaviour. However, in recent times the situation is improving gradually as it is seen that the percentage of disposed cases by the TCW is gradually increasing.
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- It is found that the number of registered cases in TCW is much higher than both ASCW and MSCW. It is noteworthy that as per the National Crime Records Bureau reports (Appendix VI) Tripura stands first in terms of crime against women among other States in India. In comparison there are less number of cases of crimes against women in Assam, and Meghalaya. Such situation partially explains the high number of cases registered in TCW. Therefore, more responsibility lies on the shoulder of TCW to provide both protection and justice to women in the State.

- It is found that the registered cases of ASCW, MSCW and TCW covered different aspects of violation of the rights of women such as kidnapping, rape, dowry, sexual harassment etc. Besides these, in Meghalaya majority of the cases are registered for maintenance grant.

- An important function of SCWs is to visit custodial homes, jails and destitute homes etc. where women are kept. The Commissions under study (ASCW, MSCW and TCW) visit different district jails, destitute homes and hospitals. In some cases they are satisfied with the present condition of these places and in some cases they have made specific recommendations. It is also important to mention here that the ASCW has helped many convicted women (who have completed their period of punishment in jails) in their rehabilitation process by providing them training in vocational courses.

- In order to protect and promote rights of women it is also important to spread awareness among people about the rights of women. In order to spread awareness ASCW, MSCW and TCW regularly organise awareness programmes, seminars, workshops etc.

- All these three Commissions are able to spread awareness among common people in general and women in particular about the rights of women; these Commissions even succeeded to grow a feeling among a section of women that they (SCWs) would act as the protector of their (women’s) rights incase any of their rights is violated under any circumstances.
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- The Commissions are made accountable to the Legislature. Till date the ASCW has placed ten Annual Reports to the Govt. of Assam; the MSCW has placed four Annual Reports to its State Government and the TCW has placed nine Annual Reports to the Govt. of Tripura. The Commissions neither submits the reports regularly nor is there any pressure on them from the State Governments to do so. It is thus inferred that there exist a lack of interest on the part of both the Commissions and the respective State governments to enforce accountability.

- It is important to mention that so far as the finance is concerned it is found that ASCW, MSCW and TCW do not propose any amount to be sanctioned by the State Government. In ASCW and MSCW the total sanctioned amount is utilised regularly. The TCW does not utilise its total sanctioned amount every year. It is noteworthy that the average sanctioned amount (per year) to the TCW is much higher than the ASCW and MSCW. Further, there are not so much dissimilarities in the average amount of expenditure (per year) made by all these three Commissions.

- It is also revealed that the finances of ASCW, MSCW and TCW are audited by the registered Chartered Firms. However, till date no audit of the finances has been made by the office of the Accountant General of the respective State Governments as specified in the Act. It indicates lack of interest on the part of the State Governments to see that the Commissions work as per the provisions of the Act.

From the study it can be seen that though ASCW, MSCW and TCW have been working on the issues related to women’s rights it is felt that these Commissions should perform their functions more effectively. In recent times violation against women in these three States have been increasing but there is a lack of involvement of ASCW, MSCW and TCW in most of these problems in a proper way; and this raises serious concern about the efficacy of these organisations.
In addition to the above points the present study also tries to delve into the interface between the NGOs and the SCWs. The following points emerged from this study:

- NGOs adopt different mechanisms to register their protest in cases of violation of the rights of women, such as silent march, protest march, gherao offices of law enforcing agencies, call for strikes/blockades, take up advocacy programmes, demonstration in front of the offices of public authority etc. NGOs of these three States are of the view that such protest measures do not produce effective or fruitful result. Though some cases of violation of rights of women are solved, but more than half of the cases remain unresolved.

- In the views of the NGOs the Governments in Assam and Meghalaya have positive attitude towards the solution of their problems but a different picture emerges from the study in case of Tripura. Half of the NGOs views Government’s attitude as responsive and another half consider it as indifferent. It has been observed that the reason behind such a situation is the political party affiliation of the members of the NGOs which generally shape the attitude of the Government. However, this has not been observed in case of Assam and Meghalaya.

- According to the NGOs maintaining contact with the Commissions (ASCW, MSCW and TCW) helps them in their workings, be it always or sometimes. They receive help from the Commissions in organising seminars, workshops, filling cases, providing information on schemes and rights related to women etc.

- In Assam only half of the NGOs under study are intimated by the ASCW for discussion/suggestion on the issues related to women whereas, in Meghalaya and Tripura majority of the NGOs are intimated by the Commission. On the frequency of the contact it is found that in case of Assam the response is equally divided among ‘regularly’, ‘sometimes’
and ‘as per necessity’ whereas in Meghalaya majority are contacted ‘as per necessity’ followed by ‘sometimes’ and a small number of NGOs are contacted on ‘regular’ basis. In Tripura less than half of the NGOs are contacted by the Commission ‘regularly’ whereas majority of them are contacted ‘as per necessity’.

- Fulfillment of objectives is indicative of the efficacy of any institution. Both in Assam and Meghalaya the Commissions have been able to fulfill their objectives either completely or partially whereas in Tripura the picture is opposite.

- In terms of political inference by the State Government in the workings of the Commission Tripura stands first among these three States followed by Assam and Meghalaya.

It is thus seen that as defender of women’s rights the ASCW and MSCW are in a better position than TCW. The working of the SCWs shows that there are areas of weakness which needs to be addressed if the Commissions have to work effectively. These are highlighted below.

**Recommendations:**

1. **Appointments of Members:** Contrary to the present practice of nominating the Chairperson, Vice Chairperson and other Members of the Commissions by the Government it would be better if they are appointed by an independent body constituted by the Governor comprising the Chief Minister, Speaker of the Legislative Assembly, Minister in-charge of the Department of Home and the Leader of the Opposition of the respective State as in the case of SHRC in order to ensure the independence and impartiality of the organisation. The Government may well follow the steps as prescribed in the Protection of Human Rights Act, 1993 on the appointment of the members of NHRC and SHRC. Reputed persons in the area of women’s rights/studies may be considered for appointment as Chairperson and other members. In case of staff members also the
Commission should have its own permanent staff instead of their appointments on deputation basis.

2. **Investigation Team:** All the State Commissions for Women should have their own investigation team, comprising of fifty percent female police personnel so that it can work independently without depending on other Government departments like department of police.

3. **Finance:** It should develop a guideline for determining the quantum of finance released to the Commission. These funds should be made available to the Commission regularly and on time.

4. **Autonomy and Independence of the Commission:** In order to ensure autonomy and independence of the Commission it is imperative that the appointment of members be free from political interference. The Commissions as quasi-judicial independent body should be allowed to function independently.

5. **Coordination between the SCWs and NGOs:** As NGOs work at the grassroots level the Commissions should involve the NGOs in dealing with the cases related to violence against women. Their advice and experience may help the Commissions in dealing with the cases.

6. **Proper Implementation of the Provisions of SCW Acts:** State Governments should ensure that their respective SCWs publish annual reports regularly and are placed before the legislature. Besides this the Government should also ensure that the accounts of the Commissions are regularly audited by the Auditor General of the State as laid down in their respective Acts and not by the private Chartered Accountants as is the practice at present.

Finally, establishment of the State Commissions for Women is a significant step towards the protection and promotion of the rights of women. But if these Commissions do not perform their functions with serious concern and enthusiasm
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the basic objective behind the establishment of such Commissions goes in vain. Instead of remaining as an elite organisation and as a wing of Government there is a need to make these bodies more active and relevant to society. It should be more people-centric so that the common people get confidence in approaching the Commission in case of violation of their rights.

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