CHAPTER – VI

HUMAN RIGHTS AND ENFORCEMENT MECHANISMS

The preceding chapters reveal the fact that with the expansion of the horizon of human rights, the rate of crime is also increasing. It has become a matter of serious concern and it is certain therefore, that the enforceability factor associated with the concept of right has become very much significant. Enforcement mechanisms ensure observance of or obedience to a law by physical or moral force. Without the provision of enforcement, human rights would be meaningless. The legal maxim *ubi jus ibi remedium* indicates that if law confers a right there must be a remedy in the event of its violation. Therefore, if there is no remedy available to the aggrieved person, then the right, which is unenforceable in character, becomes a mere shadow without substance and ceases to be a legal right.¹ Proper enjoyment of human rights, to a great extent is determined by the efficient working of the enforcement mechanisms. In this chapter, the role of enforcement mechanisms, for the protection of human rights, with special reference to those existing in Assam has been discussed.

In India, the rights conferred by the constitution and other statutes are not without proper legal binding but their enforcement is vital for their effective functioning. The three organs of government, i.e., legislature, executive and judiciary may play significant roles as enforcement mechanisms. The legislature, i.e., the parliament may act as the protector of human rights of people and can bring about desired socio-economic changes. In India, however, the laws enacted for the protection of women's human rights suffer from various shortcomings, as analysed in chapter III. It may also be
mentioned that the role of a modern legislature does not end with passing appropriate legislation. In the parliamentary system of India, the legislature has to ensure that the laws enacted by it for the welfare of the people are properly implemented and that the wide powers vested in the administration are not used in an arbitrary manner or to the detriment of the common good. Thus, parliament becomes a potent platform for vindication of fundamental human rights and a forum for ventilation and redressal of the grievances of the ordinary man.\textsuperscript{2} The executive is concerned with the implementation of the legislations. They are, therefore, directly involved with the enforcement of human rights. Similarly, the constitution has created the independent and impartial judiciary as an effective machinery for the enforcement of the fundamental rights. However, the role of judiciary is also not above controversy. The role of judiciary has already been discussed in Chapter III. It may be said that the three organs of government can play very significant roles to protect the basic human rights of the people. Apart from these, mention may be made about some other mechanisms which are involved with the enforcement of human rights. They are as follows:

**HUMAN RIGHTS COMMISSIONS**

The human rights commissions are the institutions which are established for the protection, promotion and greater realisation of human rights. The Protection of Human Rights Act was passed in India, in the year 1993. It provides for the constitution of a National Human Rights Commission, State Human Rights Commissions in the states and Human Rights Courts for better protection of human rights. The central objective of the human rights commissions is to protect human rights and also to promote a culture of human rights in the country.
The National Human Rights Commission of India was established on October 12, 1993. The Commission consists of a chairperson, who has been a Chief Justice of the Supreme Court and four other members. The qualification of the members are:

(a) one Member who is, or has been a Judge of the Supreme Court;
(b) one Member who is, or has been a, the Chief Justice of a High Court and
(c) two Members appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.

The state human rights commissions are also established in many states like, West Bengal, Himachal Pradesh, Madhya Pradesh, Assam, Tamilnadu, the Punjab, Uttar Pradesh and Jammu and Kashmir. The government of Assam has constituted the Assam Human Rights Commission on 19th March, 1996. The Commission has its headquarters at Guwahati. The State Commission consists of a chairperson who has been a Chief Justice of a High Court, and four other members. The qualification of the members are:

1. one Member, who is or has been a Judge of a High Court;
2. one Member, who is or has been a District Judge in the state; and
3. two members to be appointed from amongst persons having knowledge of or practical experience in, matters relating to human rights.

The Human Rights Commission is an autonomous institution. It derives its autonomy inter alia, from the method of appointment of its members, their fixity of tenure and statutory guarantee thereto. The victim or any person on his behalf, may submit complaints to the state commission giving full details of the subject matter of the complaint. In such complaints, no court fee or stamp is required to be affixed. No lawyer is necessary but the complainants may engage lawyers, if they so desire. Moreover, the
complaint may be sent by post and telegraphic complaint or complaints conveyed through fax may be entertained.

The State Commissions enjoy almost equal powers with that of the National Human Rights Commission. However, the cases of armed forces are not within its jurisdiction. It can deal with the subjects contained in state list and concurrent list of the seventh schedule of the Constitution of India. The State Commissions can act as a civil court like the National Human Rights Commission.6

The Human Rights Commissions (both National and State), can inquire into the complaint of violation of human rights or abetment thereto or negligence in the prevention of such violation by the public servants. Moreover, the commissions have the power to inquire *suo motu* the violation of human rights. The commissions can intervene in any proceeding involving any allegation of violation of human rights pending before a Court with the approval of such Court. The Act prescribes that while inquiring into complaints, the commissions shall have all the powers of a Civil Court, e.g., summoning and enforcing the attendance of witnesses, discovery and production of any document, receiving evidences on affidavits, requisitioning any public record or copy thereof from any Court or Office. During investigation, the commissions can utilise the services of any officer or investigating agency of the Central Government or the State Government.

If the inquiry of the commissions disclose of violation of human rights or abetment thereof or negligence in the prevention of violation of human rights by a public servant, the commissions may recommend the concerned Government or authority to initiate action against him, or may approach the Supreme Court or the High Court concerned to
pass necessary orders or may recommend to the concerned government or authority for
grant of necessary interim relief to the victim or the family members.

From its inception, the Assam Human Rights Commission has dealt with many
cases of violation of human rights (Table 6.1). The Commission, however, does not have
separate record relating to violation of women's human rights. The cases registered by
the Assam Human Rights Commission relate mostly to custodial death, torture, dowry
death, medical negligence in government hospitals, kidnapping of children and
mysterious deaths, among others.\textsuperscript{7}

\textbf{TABLE 6.1}

\textbf{Number of cases registered and disposed of in Assam Human Rights Commission}

<table>
<thead>
<tr>
<th>Period</th>
<th>Number of cases Registered</th>
<th>Number of cases Disposed of</th>
<th>Number of cases Pending</th>
</tr>
</thead>
<tbody>
<tr>
<td>March 1996 to March 2002</td>
<td>3,810</td>
<td>2,970</td>
<td>4,55</td>
</tr>
</tbody>
</table>

Source: Assam Human Rights Commission, Guwahati

In the beginning, due to lack of awareness about the existence of the human
rights commission, in Assam very few complaints about the violation of rights were
registered. Therefore, the Commission used to register \textit{suo motu} cases on the basis of the
newstems published in the news papers of Assam. It is evident from Table 6.2, that the
number of cases registered \textit{suo motu}, in the first year of the establishment of the
commission, exceeds the cases registered on complaint. It reveals the fact that people
were not aware of the existence of institution like human rights commission.
TABLE 6.2

Number of cases registered in the first year of Assam Human Rights Commission

<table>
<thead>
<tr>
<th>Period</th>
<th>Total No. of cases registered</th>
<th>No. of cases registered - suo motu</th>
<th>No. of cases Registered on complaint</th>
<th>No. of cases disposed of</th>
<th>No. of cases pending</th>
</tr>
</thead>
<tbody>
<tr>
<td>March 1996 to March 1997</td>
<td>471</td>
<td>327</td>
<td>144</td>
<td>257</td>
<td>214</td>
</tr>
</tbody>
</table>

Source: Assam Human Rights Commission, Guwahati

In order to promote awareness among people, the Assam Human Rights Commission undertook certain steps. It laid stress on promotion of human rights literacy and with that view published the Assamese version of the Human Rights Act, 1993 and leaflets in English and Assamese containing the basic information regarding the jurisdiction of the state commission. Information about the activities and programmes of the Assam Human Rights Commission can also be acquired from the news letters which it publishes from time to time. So far it has published four news letters. It also organises awareness programmes like seminar, Symposium, and public meetings.

The establishment of human rights commissions serve various purposes like safeguarding human rights and preventing the violation of human rights. These commissions are necessary to oversee proper and effective implementation of the landmark decisions of the courts. They can act as ombudsman to protect the basic rights of individuals who cannot move the regular courts of law for enforcement of their fundamental as well as basic human rights. The commissions can look into allegations of excesses independently of government. These commissions can make a positive impact in the maintenance and protection of basic human rights as they are easily accessible.
while, to move the regular courts an individual has to overcome the procedural requirements.

However, it also cannot be ignored that the role of human rights commissions have been limited by certain difficulties. The powers of the commissions are very much restricted as they can only inquire into the complaints of violation of human rights or abetment thereto or negligence in the prevention of such violation by the public servants. Such provisions certainly undermine women's issues. The commissions cannot inquire into the violations done by land-lords, factory owners etc.

The human rights commissions are investigative and recommendatory bodies. The prosecution power is not within their jurisdiction. They can just recommend to the appropriate authorities to take action against the person who has violated human rights. Further, they can also recommend to the government or to the appropriate authorities to provide interim relief to the victim or can recommend to the courts to initiate proceedings. Thus, it cannot take action against the violator of human rights or cannot itself provide any remedy to the victim. The cases from the human rights commissions however always get priority in the court.

Another difficulty which the commissions have to face is that they are not equipped with independent investigating agency. Generally it is felt that the inquiry made by the commissions may not be impartial, as they have to utilise the investigating agency of the central government or state government, for the purpose of conducting any investigation against any officer, agency or central or state government. The investigating agency is not under the control of the commission.
Despite the existence of the shortcomings, it must be admitted that the human rights commissions may serve useful purposes in protecting human rights and preventing human rights abuses. Against the cumbersome processes of registering a case in the courts, the easy accessibility provision of the human rights commissions undoubtedly bring considerable relief to people. Increasing awareness among people may act as deterrent to the human rights violators. It may be assumed that if the human rights commissions become free from the shortcomings, then they will be able to serve their purpose in a more effective way.

WOMEN'S COMMISSIONS

The women's commissions are product of the women's movements in India. The main objective of the establishment of the women's commissions is to ensure the safety and security of all women, as a prelude towards their progress and development.

The commissions for women are the statutory organisations. The parliament of India passed the National Commission for Women Act in 1990 and the Commission was constituted on 31st January, 1992. The Commission is composed of a permanent national forum of seven full time members consisting of a chairperson, five members and a member secretary. The five Members to be nominated by the central government should be persons of ability, integrity and standing who have had experience in law or legislation, trade unionism, management of an industry or organisation committed to increasing the employment potential of women, women's voluntary organisations, administration, economic development, health, education or social welfare. The functions of the commissions cover different aspects and concerns of women, like review the constitutional and legal safeguards for women, recommend remedial
legislative measures, facilitate redressal of grievances and advise the government on all policy matters affecting women.\(^9\)

So far, the National Commission of Women has handled cases, which cover the areas such as, outraging modesty of women, atrocities on women, dowry harassment, dowry death, harassment at workplace, and gender based denial of opportunities.\(^10\) The Commission did a lot for mobilising support for 81\(^{st}\) Constitutional Amendment Bill providing for thirty three percent reservation in Lok Sabha and state legislatures. In the year 2001, the Commission has received more than four thousand cases of crime against women with maximum complaints pertaining to dowry.\(^11\) The Assam State Commission for Women was established in 1994, under Assam Act No. XXI of 1994. The Preamble of the Act states:\(^12\)

"It is expedient to provide for the constitution of a Commission for furthering the fundamental rights guaranteed by Articles 14, 15, 16 of the Constitution of India with respect to women and to give effect to the Directive Principles of State Policy and in particular those enshrined in Articles 38, 39, 39 (A) and 42 of the Constitution to improve the status and dignity of women in society, to investigate into and take or suggest suitable remedial measures against practices derogatory to women and effectively monitor and implement laws affecting women and to advise Government and all matters related to the improvement and upliftment of status and dignity of women in the society."

Therefore, one of the main aims of setting up of the Commission is to fulfil the provisions relating to women, enshrined in the Constitution of India. There is no doubt that the Constitution itself is the supreme law of the land and everyone is bound to follow the provisions of the Constitution. But it is also a cruel fact that many things are
not happening as desired by the constitution makers. The establishment of the Women's Commissions is an attempt to make the Constitutional provisions relating to women a reality. The proper functioning of the Commissions may do a lot for the upliftment of the present condition of women.

The Assam State Commission for Women consists of a Chairperson, a Vice-Chairperson, seven Members and one Member Secretary. The Chairperson and the members hold office for a term of three years.

Some of the functions prescribed for the Commission are: to investigate and examine the matters relating to the safeguards provided for women under the Constitution and other laws, recommend the State Government for proper implementation of the safeguards; review existing provisions of the Constitution and other laws affecting women and recommend amendments thereto, look into complaints and take *suo motu* notice of matters relating to deprivation of women's rights; non-implementation of laws, and non-compliance of policy decisions etc.

The Act prescribes that, the Commission shall, while investigating any matter, have all the powers of the Civil Courts trying a suit and, in particular in respect of the following things: summoning and enforcing the attendance of any person, production of any document, receiving evidence of affidavits, requisitioning any public record from any court or office etc.

The procedure for registering a complaint in the Assam State Commission for Women is very simple. Any person, either the aggrieved person or any other person may lodge a complaint in a plain paper. The addresses of both the parties should be there.
Then the Commission registers the case and summon is sent to both the parties for hearing.

The cases registered in the Commission are mostly in the nature of atrocity, bigamy, maintenance allowance, dowry, rape, kidnapping etc. (Table-6.3). The Commission tries to solve the cases by mutual agreement. If it is not possible then they refer the cases to the appropriate Court.

**TABLE 6.3**

Assam State Commission for Women

Number of Complaints Received and Disposed of (year 1994-2001)

<table>
<thead>
<tr>
<th>Year</th>
<th>Atrocity</th>
<th>Bigamy</th>
<th>Maintenance allowance</th>
<th>Dowry</th>
<th>Rape</th>
<th>Kidnapping</th>
<th>Land disputes</th>
<th>Misc</th>
<th>Total</th>
<th>Disposed of</th>
</tr>
</thead>
<tbody>
<tr>
<td>1994</td>
<td>19</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>-</td>
<td>1</td>
<td>1</td>
<td>26</td>
<td>-</td>
</tr>
<tr>
<td>1995</td>
<td>36</td>
<td>-</td>
<td>1</td>
<td>2</td>
<td>4</td>
<td>3</td>
<td>3</td>
<td>5</td>
<td>54</td>
<td>6</td>
</tr>
<tr>
<td>1996</td>
<td>26</td>
<td>5</td>
<td>3</td>
<td>7</td>
<td>4</td>
<td>2</td>
<td>6</td>
<td>5</td>
<td>58</td>
<td>14</td>
</tr>
<tr>
<td>1997</td>
<td>60</td>
<td>5</td>
<td>8</td>
<td>6</td>
<td>6</td>
<td>1</td>
<td>4</td>
<td>7</td>
<td>97</td>
<td>32</td>
</tr>
<tr>
<td>1998</td>
<td>57</td>
<td>-</td>
<td>9</td>
<td>13</td>
<td>2</td>
<td>2</td>
<td>3</td>
<td>6</td>
<td>92</td>
<td>25</td>
</tr>
<tr>
<td>1999</td>
<td>56</td>
<td>-</td>
<td>4</td>
<td>16</td>
<td>8</td>
<td>1</td>
<td>5</td>
<td>10</td>
<td>100</td>
<td>60</td>
</tr>
<tr>
<td>2000</td>
<td>65</td>
<td>2</td>
<td>6</td>
<td>9</td>
<td>9</td>
<td>1</td>
<td>2</td>
<td>11</td>
<td>105</td>
<td>18</td>
</tr>
<tr>
<td>2001</td>
<td>33</td>
<td>6</td>
<td>7</td>
<td>3</td>
<td>4</td>
<td>3</td>
<td>1</td>
<td>26</td>
<td>91</td>
<td>54</td>
</tr>
<tr>
<td>Total</td>
<td>352</td>
<td>19</td>
<td>39</td>
<td>57</td>
<td>39</td>
<td>13</td>
<td>25</td>
<td>74</td>
<td>623</td>
<td>289</td>
</tr>
</tbody>
</table>

*Source*: Assam State Commission for Women, Guwahati

The Commission has established one family counselling centre with two counsellors, one of them is a psychiatrist and the other is a social worker. Depending upon the nature of cases, the Commission tries to solve the cases through counseling.

Moreover, the Commission has one Legal Advisory Committee. This committee is composed of one chairperson, i.e., Retired District and Sessions Judge, three
advocates, one social worker and the Deputy Superintendent of Police (Crime against Women-Cell). If mutual agreement is not possible, then the aggrieved party is provided with necessary legal advice.

Apart from these, the Commission has one Special Investigating Committee. In some cases the Commission has to send this Investigating Committee for on the spot enquiry. This Committee consists of advocate, special worker, Deputy Superintendent of Police (Crime against Women Cell) and one doctor of a Government Hospital.

So far, the Commission has been able to provide some relief to the victim women by way of counselling and legal aid. In many cases, the notice of summon works as a deterrent to the oppressor. However, it must also be admitted that the power of the Commission is very limited as it is only a recommendatory body. The Commission can become an effective instrument of substantive assistance to the aggrieved women, if it is vested with some more powers.

**Family Court**

In India the Family Court Act was passed in 1984, in order to promote conciliation in and to secure speedy settlement of disputes relating to marriages and family affairs and for matters connected therewith.

The Family Courts prove to be very important in the enforcement of human rights of women. These Courts are established for expeditious disposal of cases relating to the marriages, family affairs and matters connected therewith. Ordinary Courts engaged in Civil and Criminal disputes between the litigants do not find time to deal with the cases of family affairs expeditiously. As a result, the major part of the time of
the parties is spent in awaiting for result of litigation. It causes great harm to various families. The speedy trial of the Family Courts can give relief to the disputing parties.

The Court has been conferred jurisdiction to reconcile and settle disputes relating to the family affairs of the litigating parties and can therefore, provide relief on maintenance to spouses and dependants including minors under Hindu Minority and Guardianship Act, 1956, and Hindu Marriage Act, 1955, Muslim Women (Protection of Rights on Divorce) Act, 1986 etc. The suits relating to restitution of conjugal rights or judicial separation or dissolution of marriage, declaration of legitimacy of a person, guardianship and custody of minors etc., also may be registered here. An appeal from an order of the Court lies before the High Court and is judged by a bench of two or more judges.

The Act prescribes that the state government after consultation with the High Court may establish for every area in the state comprising a city or town whose population exceeds one million. In Assam, so far only one Family Court has been established in Kamrup district in March 1992. Since then it has been dealing with cases of family matters. The data of the four quarters of the year 2001 is presented in Tables 6.4 and 6.5 and they show that a number of cases are registered regarding family matters. Table 6.4 discloses that the cases under Sec. 125 of the Criminal Procedure Code i.e., for maintenance, outnumber the cases of other heads. It is beyond doubt that economic dependence of women has become a matter of serious concern. On many occasions women have to silently bear violation of their rights as they do not have any other better option, and those who dare or are compelled to come out of the matrimonial home, have to run from pillar to post to get maintenance. The speedy legal process of the
### TABLE 6.4

**Cases instituted in the Family Court, Kamrup district (2001)**

<table>
<thead>
<tr>
<th>Period</th>
<th>Number of cases under Hindu Marriage Act</th>
<th>Number of cases under Sec. 125, Cr. P.C.</th>
<th>Number of cases under Guardianship &amp; Adoption Acts</th>
</tr>
</thead>
<tbody>
<tr>
<td>1&lt;sup&gt;st&lt;/sup&gt; Quarter</td>
<td>57</td>
<td>100</td>
<td>12</td>
</tr>
<tr>
<td>Jan-March</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2&lt;sup&gt;nd&lt;/sup&gt; Quarter</td>
<td>84</td>
<td>77</td>
<td>11</td>
</tr>
<tr>
<td>April-June</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3&lt;sup&gt;rd&lt;/sup&gt; Quarter</td>
<td>76</td>
<td>115</td>
<td>26</td>
</tr>
<tr>
<td>July-September</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4&lt;sup&gt;th&lt;/sup&gt; Quarter</td>
<td>68</td>
<td>86</td>
<td>22</td>
</tr>
<tr>
<td>Oct- Dec</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>285</td>
<td>378</td>
<td>71</td>
</tr>
</tbody>
</table>

*Source: Family Court, Kamrup district*

### TABLE 6.5

**Cases disposed of (including pending cases): year 2001 in the Family Court, Kamrup district**

<table>
<thead>
<tr>
<th>Period of time</th>
<th>No. of cases under Hindu Marriage Act</th>
<th>No. of cases under Sec. 125 Cr. P.C.</th>
<th>No. of cases under Guardianship and Adoption Acts</th>
</tr>
</thead>
<tbody>
<tr>
<td>1&lt;sup&gt;st&lt;/sup&gt; Quarter</td>
<td>67</td>
<td>110</td>
<td>15</td>
</tr>
<tr>
<td>Jan.- Mar.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2&lt;sup&gt;nd&lt;/sup&gt; Quarter</td>
<td>83</td>
<td>135</td>
<td>12</td>
</tr>
<tr>
<td>April-June</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3&lt;sup&gt;rd&lt;/sup&gt; Quarter</td>
<td>60</td>
<td>42</td>
<td>6</td>
</tr>
<tr>
<td>July-Sept.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4&lt;sup&gt;th&lt;/sup&gt; Quarter</td>
<td>109</td>
<td>124</td>
<td>17</td>
</tr>
<tr>
<td>Oct- Dec</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>319</td>
<td>411</td>
<td>50</td>
</tr>
</tbody>
</table>

*Source: Family Court, Kamrup district*
Family Court as revealed by Table 6.5 will certainly help the women in distress to get justice on time.

The Act prescribes that in every suit for proceeding, endeavour shall be made by the Family Court in the first instance, where it is possible to do so consistent with the nature and circumstances of the case, to assist and persuade the parties in arriving at a settlement. The counsellors can be nominated by State Government in consultation with a State High Court. Social Associations can equally be associated with the efforts made by the Court to effect reconciliation and settle disputes of family affairs.

In the Family Court, the parties are not required to be represented by a legal practitioner. However, the Court may seek the assistance of a legal expert as amicus curiae. The less technical and speedy legal process of the family Court makes it easy to approach the court and to get justice in shorter span of time. Establishment of Family Court in each and every district is necessary. In Assam, so far only in one district, i.e., the Kamrup district, the Family Court has been set up. Government should ensure the establishment of Family Courts in other districts also.

Women's Organisation

The Women's organisations may play a vital role in the enforcement of human rights of women. Apart from taking active part in the awareness drive, the legal aid they offer to the distressed women may be considered as a commendable job. In Assam, there are various women's organisations working for the welfare of women. Here, the activities of the Assam Pradeshik Mahila Samity have been taken up for analysis, as it has its branches all over Assam.
In Assam, the first Mahila Samity (Women's organisation) was formed in Dibrugarh in 1915. After that in 1917 and in 1919, Nagaon and Tezpur Mahila Samities were formed respectively. At that time, the Mahila Samities took up the cudgel for the abolition of the purdah system and child marriage. However, the year 1926 may be considered as a landmark in the history of women's movement in Assam. In that year Asom Pradeshik Mahila Samity was formed and was given the responsibility of coordination of the various Mahila Samities scattered all over Assam. It is a registered organisation. The Head Office of Asom Pradeshik Mahila Samity is situated in Guwahati. It tries for the betterment of the general, social, educational and economic condition of the society in general and women and children in particular.

Some of the aims and objectives of the Samity are: to provide all opportunities to the women folk in the social and economic spheres and champion the cause of equal rights for them; to strive for the general improvement of the state of Assam and for the welfare of the children and mothers; to initiate a campaign and undertake a broad based programme for the promotion of national education, specially child and women education. Thus, the Samity is concerned with the all round welfare of women and actively participate in the enforcement of rights of women. The Samity is both directly and indirectly concerned with enforcement of women's rights. On the one hand, it tries to empower women through economic independence and education, and on the other hand, through the legal aid cells it tries to enforce women's rights directly.

The present activities of the Asom Pradeshik Mahila Samity includes mother and child welfare, promotion of cottage industries, rehabilitation of destitute women, establishment of Cooperative societies, running condensed course and literacy drive for
adult women, establishment of sewing and knitting classes, weaving, carpet and jute craft making centres and such other income generating training.

A valuable contribution of the Asom Pradeshik Mahila Samity is its 'Legal Aid Cell' and the 'Family Counselling Centre'. The 'Family Counselling Centre' tries to patch up the broken homes by minimising the rift between the husband and wife. They help the couples to set aside the misunderstandings and then to begin a new happy life. The centre is constituted of social workers and a psychiatrist.

The Asom Pradeshik Mahila Samity started its 'Women's Legal Aid Cell' on 14th November, 1989. The Cell is comprised of two advocates and two social workers. Since its inception, so far more than 2,500 cases have been registered in the cell. The cases which come to the cell are mostly maintenance cases. The other cases include separation, custody of the child, dowry etc.

The cell tries to solve the cases with mutual understanding, without going to further confrontation. When a party comes to the cell and register a case, then the cell calls both the parties in a specified date and after hearing the parties, the cell assists them to come to a peaceful solution and try to give relief to the aggrieved party on the basis of existing laws. But if the opposite party does not want to comply with the suggestion of the cell and there is no way but to move the Court, then necessary legal advise is given to the appellant for filing the suit. If the appellant party is economically weak enough to bear the burden of the case then necessary help is provided to them. The cell tries to solve the cases out of Court. Both the parties are apprised of the legal consequences of the case. As most of the parties do not want to go to Court, a number of cases are solved with the aid of the Cell. Thus, the legal aid cell can do a lot in making
women aware of their rights, make them competent enough to fight for their rights and to get their rights.

The Asom Pradeshik Mahila Samity has nineteen District Mahila Samities. Each District Mahila Samity has four hundred to five hundred Primary Mahila Samities under it. The number of primary members is more than two lakhs. These Mahila Samities of various localities also serve various purposes. Their organised protest demonstrations against some crimes like gruesome killings, rape etc., compel police to take action and to expedite the case. Some of the District Mahila Samities have started family counseling centres and legal aid cells also.

Thus, the women's organisations can enforce human rights both direct and indirect ways. Their constant pressure may make police remain alert of their duties. Moreover, their active role against the violation of women's human rights may help the women in distress to get their rights and may also help in combating against the violation of rights by making women aware of their rights.

The Police

The proper implementation of the legislation mainly depends upon the activities of the administration and the judiciary. Within the administration also, the police administration mainly come in direct connection with people in case of violation of human rights. The police is the first agency for the administration of justice. Though it occupies a strategic position in respect of social defence, it has not been able to check increasing rate of crime against women.
The main task of police administration is to maintain law and order situation and peace in society. The common people mostly have to interact with the police personnel posted in Police Stations and Outposts. In case of violation of human rights, a person at first comes to the police and seeks redress. Therefore, police is the agency, from which people seek assurance and help for safeguarding their human rights.

However, there is doubt, how far police has been able to fulfil the expectations of people. Justice M.N. Venkatachaliah, who was the Chairperson of National Human Rights Commission observed, 20 "Public confidence is the greatest asset of police force. But either by insensitivity or insolence of power, they have become a great liability, and society views them more as tormentor than protector." The view of people in general regarding police has been reflected in this observation.

Police occupies a strategic position in the prevention and control of crimes against women. But the apathetic attitude of police towards the grievances of women, has lessened the confidence upon police. The involvement of some policemen in cases of eve-teasing, rape, murder etc., have disappointed people and the policemen have lost their reliability.

In cases relating to women, allegations come against police that they in stead of helping people to get proper justice, stand as an impediment to it. It is alleged that on many occasions police refuses to register cases. In such situations most of the cases die a natural death as the poor and uneducated people do not know any alternative for it. Another allegation which come against police is that, in some cases the police even after registering the case do not take proper action against the accused person. The inaction of police increases the misery of the victim. Several such cases have been registered in the
Assam Human Rights Commission and the Assam State Commission for Women. In a kidnapping case,\(^{21}\) it was alleged that the accused who kidnapped and confined a girl, was charge sheeted by police.\(^{22}\) During that period the accused was seen in the locality freely moving with sophisticated weapons. But police did not arrest him and stated that he was absconding. In another case,\(^{22}\) the victim of rape alleged that after filing the First Information Report in the local police station, the accused persons were arrested by police. But the very next day, police released them by taking a sum of Rs.20,000 as bribe from them. Thus, police not only has failed to help the victim, but on many occasions they appear as the protector of the accused persons. This nexus of police and accused persons has certainly helped in the increase of the violation of human rights. Moreover, due to such incidences the members of society lose faith, both in law and enforcement agencies and the prospective offenders get encouragement to indulge in crimes.

Justice Krishna Iyer, regarding the negative role played by police in women related cases, observed,\(^{23}\) 'Police are men too! Their investigation bears gender bias, their custodial process betrays criminal manifestations. Even the prison keeps women insecure. For them the constitution is counterfeit until gender justice turns militant, strident and honest.' Justice Venkatachalaliah has gone even to the extent of saying that,\(^{24}\) "There should be police security commission, and a credible, transparent and efficient 'police complaint authority' for redressal to complaints of police high handedness, incivility, arbitrary arrests, intimidation and false implications." Thus, the statements of the two former judges of the Supreme Court expose the role played by police in society.
The reasons of the present inefficient role played by police may be many and varied. A study, conducted by the National Commission for Women, on the working of the police, reveals that,25 "A considerable number of police are virtually untrained and are not able or equipped to grapple or cope with critical situations, particularly due to mass recruitment of constables without fulfilling even the minimum requirements often due to graft practices. In the process many recruits with even a shady criminal past and record have managed to get inducted into the police force, both at the centre and the states." Moreover, recruitment on the basis of political considerations, lack of proper training etc., are also reasons behind the apathy and inaction of police towards safeguarding human rights.

The negative role played by police certainly encourages the anti-social elements. Therefore, now it is high time to take all required measures to mould the police in such a manner that they perform their duties efficiently. Their recruitment should be strictly on the basis of eligibility. Moreover, human rights education and training should be a must for the police force. Emphasis should be laid on the sensitisation aspect also. Thus, the image of police as perpetrator of crime should be changed. As an enforcement machinery, the police can do a lot for safeguarding human rights. A greater public-police cooperation, will create confidence of people upon police. Fundamental changes in the police force regarding attitude, training and motivation will help to create rapport between police and public.

In the present times, in view of the gross violation of human rights everywhere, active role of the enforcement machineries has become of utmost importance. But it has been observed that the enforcement agencies share a great portion of the blame for the
inefficient implementation of the protective laws. Therefore, the need of the time is to make the enforcement machineries more efficient so that they can perform their duties more effectively without trampling on human rights. Right from the registration of the case and taking action against the accused persons, the police can relieve the victim to a great extent. Impartial and unbiased performance of the court will naturally increase the faith of people upon judiciary and deter the accused persons. The simple process of filing a complaint without any expense, in the Human Rights Commissions and Women's Commissions, help the downtrodden to feel that they also can lead a dignified life without any interruption of their inherent rights. Moreover, the free legal aid cells may act as panacea to the persons, for whom it is a far cry to knock the door of the court for redressal of their grievances, due to their financial incompetency. The proper functioning of the enforcement machineries would no doubt help each and every person to enjoy human rights, irrespective of economic and social position.

NOTES AND REFERENCES


3. The Protection of Human Rights Act, 1993, Sec. 3(2).


5. The Protection of Human Rights Act, 1993, Sec. 21(2).

6. Ibid., Sec. 21(5).


8. The National Commission for Women Act, 1990, Sec. 2(b)
9. Ibid., Sec. 10.


13. The Assam State Commission for Women Act, 1994, Sec. 10(1).

14. Ibid., Sec. 10(3).


17. Ibid., Sec. 13.


19. Ibid., pp. 15-16.


21. 3861/02, case registered in Assam Human Rights Commission.

22. 110/96, case registered in Assam State Commission for Women.


25. Supra note 10, p. 45.